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THE NATURE AND THE FUTURE OF INTERNATIONAL LAW[1]

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Returning, in the early days of the war, from a belligerent Germany, through a mobilized Switzerland and a partly mobilized Italy, to an America that was still unperturbed and unprepared, I revisited the famous Museum of Naples. In one of the central corridors, I noticed an ancient mural inscription, which I had doubtless seen before without appreciating its significance—an inscription of the time of Augustus: "To perpetual peace." Thus even in warlike Rome, and more than nineteen centuries ago, after a series of wars that had shaken the then civilized world from the Alps to the African deserts and from the Pillars of Hercules to the Nile, as after every great war that has since devastated Europe, men's minds were turning with inextinguishable hope to the vision of a warless future.

I

To keep the peace is the prime and perpetual problem of law. From prehistoric ages, when loosely aggregated tribes first sought to limit feuds between kinship groups and to substitute compensation for vengeance, to our own day, when we are still striving to check the unregenerate human reversion to violence

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in economic struggles, and to persuade or compel the adjustment of labor troubles through negotiation or arbitration, the fundamental command of the state has been the praetorian *vim fieri veto*. This is also the goal, yet unattained, of that body of law, ancient in its beginnings but still imperfectly developed, which we call the law of nations.

To describe a law that is construed and applied in the courts of every civilized state and in international courts of arbitration; a law whose rules are to be found not only in recorded precedents but also in resolutions of international congresses; a law that has been elucidated for three centuries by the labor of hundreds of trained jurists, until its sources and literature form a library far larger than that of many an existing system of national law—at least twenty times larger than the library used in compiling the law books of Justinian—to describe such a law as imperfectly developed seems paradoxical. Many writers, however, go much further, denying that the law of nations deserves the name of law. They call it international morality. Others deny that it merits even this name. Recognizing no world ethics, they assert that international law is nothing more than a body of usages, morally binding upon the single state only in so far as the state accepts them, supplemented by agreements which each state concludes of its own free will and cancels at its own sovereign pleasure.

All these writers, of course, admit that in so far as any state binds itself by international agreements, and so long as it adheres to these agreements, and in so far as the rules of international morals or international usage are recognized by the legislatures or courts of the single state and enforced through its own administrative or judicial processes, what we call international law is indeed law, but only because it is national law. When a controversy arises between states, treaty provisions that are repudiated by either of the parties and rules that are not binding upon both parties by their own domestic law are not law at all, because there exists no superior organized force to constrain obedience.

The assumption that underlies these assertions is that no rules

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of social conduct can be regarded as legal rules unless they are supported by superior force, exercised by some generally recognized and relatively permanent superior authority. It is further maintained, by many writers, that law, properly so-called, not only must be enforced, but also must be established by such an authority. To this last contention, however, legal history lends no support. Little national law was originally established by organized political authority, unless recognition is to be regarded as establishment. Usages older than courts or legislatures were interpreted by the earliest courts and embodied in the earliest legislation. Even in the later stages of legal development changes of usage have been similarly recognized.

Among the writers who maintain that international law is really law, some insist, and with truth, that physical coercion is not the only means that a society employs to insure obedience to its laws, nor is it always the most effectivemeans of coercion. Ridicule of unusual conduct and disapproval of anti-social conduct exercise a psychical pressure that is often more effective than fine or imprisonment. If social disapproval is sufficiently strong to entail ostracism, and if this begets a boycott, a society exercises the same economic pressure that a state employs when it supports its laws with pecuniary fines or with confiscation of property. Even in the modern state, the law that is made or recognized by political authority would be far less generally observed if the penalties that are imposed on anti-social conduct by the physical power of the state were not supplemented by the pressure of public opinion. These writers point out that international law has an effective sanction in the sentiments and opinions of civilized mankind, and that no state, however powerful, can without serious risk antagonize the civilized world.

Between those who assert that rules enforced by psychical pressure may be regarded as legal rules, and those who insist on the criterion of forcible coercion by a political superior, an intermediate position may be taken. It may be admitted that social imperatives can properly be regarded as legal only when they are supported in last instance by force, without admitting that this force must needs be exercised by an organized political authority.

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If a society that has no political organization, or none that is efficient, exercises physical coercion, either through spontaneous general action or through extemporized organs, to punish acts that are regarded as anti-social, or if it recognizes the right of its individual members to exercise physical coercion against offenders and protects them against retaliation, it may well be maintained that social usages thus sanctioned are legal.

From this point of view it is possible to distinguish tribal law in its earliest stages of development from tribal manners and morals, and to find in early tribal usage a core at least of true law. From this point of view it may also be said that some at least of the rules that govern the relations between independent modern states are to be regarded as legal rules.

Not a few writers have compared international law in its present stage of development with national law in its infancy or adolescence. In the law of nations, as in all early law, the greater part of the recognized rules rest on precedent; they are customs. In either system, law may be supplemented or even changed by agreement, and agreement must in principle be general. Decision by a majority of voices was no more recognized in the Teutonic folkmoots or in the Polish Diet than in the international congresses of today. Agreements bound only those that agreed. In both the historic instances cited, however, the principle of general consent was modified by the greater influence of the more important members of the community. In the Teutonic folkmoot, a handful of common free men would hardly attempt to groan down a proposal supported by all the chiefs. In the Polish Diet an ordinary nobleman would hesitate to interpose his *liberum veto* against a resolution supported by all the magnates. Today the general agreement of the more important states sometimes suffices to establish a new international rule.

The most striking analogy between the society of nations and early tribal society is to be found in the fact that the early tribe was not primarily a society of individual human beings, but a society composed of more or less independent groups. The Teutonic tribe, for example, was a society of kinship groups.

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The legal molecule was the *Sippe,* for which you will permit me to use the good old Saxon word "sib." The atoms in this social molecule were disregarded. As in the society of nations a wrong to an individual is a wrong to his state, so in the Teutonic tribe an injury inflicted on an individual was an injury inflicted on his sib. The absence or imperfect development of superior political authority inevitably leaves the redress of wrongs to self-help; and in the Teutonic tribe this was the affair of the sib, as in the society of nations it is the affair of the state. In the one case the ultimate means of redress was sib feud; in the other, it is war. To the Teutons, feud between sibs and war between tribes were essentially the same thing; the only difference was in the scale of operations.

As early as the fifth century, however, and probably earlier, the Teutonic tribe had taken a step forward which the society of nations is today endeavoring to take. It had suppressed feud in the case of minor injuries, compelling the injured sib to come into the popular court and demand penalty. It permitted feud only in cases of "blood and honor." And even here, if the injured sib was willing to waive vengeance and sue for penalty, the offending sib was forced to answer in court.

Again, in dealing with acts that clearly injured not only a sib but also the whole tribe, the Teutons had established in a prehistoric period the rule that such an act put the offender out of the peace of the tribe, and that any freeman might slay him with impunity. In such a case the slain man's sib was restrained from raising feud. The list of offenses recognized as crimes against the tribe was indeed a short one, but the list of offenses recognized today as crimes against the world is still shorter. Piracy is perhaps the only clear case. The attempt to assimilate the slave trade to piracy has not been fully successful.

A very important difference between modern international and early national law is found in the fact that early society was working out slowly and with infinite travail those notions of substantive right that are today familiar to every civilized human being. Courts were instituted to terminate controversy; justice has been a by-product. From this point of view,

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we may compare the society of nations to a community of at least moderately civilized human beings that has no political organization or none that is able to maintain order. Such was the situation—if I may cite an ancient instance taken from records readily accessible but less frequently consulted than they should be by modern students of politics—of Israel, in the days when it had escaped from its long Egyptian bondage and had not yet developed any political organization superior to that of the tribe. In Egypt the Israelites had become acquainted with a higher civilization, but after conquering and settling Palestine they had, as we are told, "no king, and every one did that which was right in his own eyes." An outrageous breach of hospitality, that is, a breach of the customary law which alone made intertribal intercourse possible, a breach coupled with rape and murder, so stirred the anger of all Israel against the tribe of Benjamin, in whose territory the outrage occurred and which refused to surrender the criminals, that all the other tribes united to exact reparation. Although the allied tribes raised by conscription forces superior to those of Benjamin, they encountered bitter and obstinate resistance. Benjamin seems to have been exceptionally prepared for war. It had what may be called superior artillery; it had "seven hundred men, left-handed, who could sling at an hair-breadth and not miss." The allies suffered two serious defeats, but they prosecuted the war until Benjamin was conquered. Then the chastened tribe was restored to its place in the society of the tribes of Israel.[2]

In continental Europe, in the later middle ages, there were many countries in which law was not efficiently enforced by determinate political superiors. In this period we have repeated instances of the formation, in emergencies, of leagues to enforce peace. Some of these, such as the Hansa, developed into powerful federations. Others like the Vehm, which may be described as a great central European vigilance committee, served their temporary purposes and disappeared. The Vehm devel-

[2] Judges, chapters xix–xxi.

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oped no determinate superior that could be called sovereign, but the rules it enforced, until it succumbed to internal corruption and decay, were well recognized legal rules and their enforcement was as efficient as in the average modern state.

We have had similar experiences in our own country. In the settlement and development of the West, men imbued with notions of civilized justice were thrown together, in frontier settlements and in mining camps, beyond the pale of organized political authority. They enforced such rules as were necessary for efficient coöperation by reverting to primitive processes, to self-help and to lynching. In some instances, notably in California, they organized vigilance committees. Whether the rules they enforced, and enforced very effectively, should be called law, is of course a question of definition. An apparently prosperous New York business man once told me that he did not believe in government or in law; he thought they did more harm than good. In his youth he had lived in western mining camps and had found that "they got on much better before the law came in." I asked him what they did with claim jumpers and with horse thieves. He replied that claim jumpers were usually shot and horse thieves usually hanged. He was unacquainted with the formal philosophy of law or of politics; but he was one of Touchstone's "natural philosophers," and his theory of law was that of the analytical jurist of the most formalistic type.

In the society of nations, the redress of an international wrong by the concerted action of a number of states is a significant step. Such action has been taken more than once against small states, and against nations imperfectly organized or temporarily disorganized by internal conflicts. The most recent illustration is the concerted action of the Powers to protect their legations in China against the Boxers. That such concerted action is possible against more powerful offenders has been demonstrated in this war, in the gradual extension of the alliance against the Central European Powers. Germany and Austria expected to fight two European Powers and two or three small European states. To-day they see arrayed against them six Powers and thirteen states containing the majority of the inhabitants of the civilized world.

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This vast league of nations has been called into being and into action by Germany's disregard of treaties and of international law. The moral reaction began with the rape of Belgium; but more decisive than this or any other offense Germany has committed in arousing the active hostility of the world—clearly decisive in bringing the United States into the war—is the ruthless and indiscriminate destruction of enemy and neutral merchant vessels. German submarine warfare against ocean commerce not only affronts the general sense of justice and outrages the universal instincts of humanity, it also disturbs the economic intercourse of the world. It not only inflicts material damage, direct and indirect, in every quarter of the globe, it also imperils to an unprecedented degree the agencies of intercourse which gave birth to civilization and by which civilization is still chiefly maintained. This is the principal, although not the only reason, why Germany finds itself confronted by something very like a World Vigilance Committee.

In every such concerted action of the still unorganized society of nations, we find, if I may revert once more to the analogy between international and early national law, a forward step resembling that taken by the tribe when it began to react in its entirety against offenses for which there had been previously no redress except by feud. In the development of tribal law, such reactions indicated that offenses previously regarded as torts were beginning to be viewed as crimes. Concerted action by the society of nations against an offending state seems to imply a recognition that a state may be held accountable, not only to other single states which it has directly injured, but also to the world for a crime against civilization.

II

There is today a widespread feeling that the fabric of international law has fallen into ruin and that it must be rebuilt from the foundations. This feeling is not new; it has appeared in every general European war; it was widely expressed during the Napoleonic wars. When men's minds are engrossed by war,

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they forget that the rules they see overridden are only a part, and not the most important part, of the law of nations. It is only the law of war that is menaced; the law of peace is unassailed and will assume its sway when peace returns. And it is a hasty judgment that affirms that even the law of war has broken down when, as is the case today, many of the combatants have been drawn into the struggle by Germany's disregard of the restrictions imposed upon warfare between civilized nations and are fighting, in part at least, for the maintenance of the law of war. Only if Germany wins and its offenses remain unpunished, will it be possible to assert that in this world war the law of war has been overthrown.

After this war, it will doubtless be necessary to fill some gaps in the law of war. The use of submarines and of aircraft must be regulated. The right of retaliation must be defined and limited. It must be made clear that the violation of neutral rights by one belligerent gives the other no right to violate the same or other rights of the same or other neutrals; and even as between belligerents some check must be imposed upon reprisals that cannot properly be called retaliations, upon reprisals that are clearly disproportionate in their illegality or in their inhumanity to the alleged offenses by which they are evoked. In the Brussels conference of 1874, it was proposed that "the choice of means of reprisal and their extent should bear some relation to the degree of violation of law committed by the adversary," that they "should not exceed the violations committed." Without some such check, reprisals and counter reprisals, each exceeding the other in illegality and inhumanity, tend to carry warfare back to its earliest and most barbarous form. There must also be an examination and a limitation of the conception of military necessity. An unlimited right of reprisal and a right to violate the rules of war whenever, according to a purely military judgment, there exists a necessity for their violation—these alleged rights reduce all rules of war to scraps of paper.

Acceptance of such restrictions will be facilitated by the experience of this war. There seems to be a growing recogni-

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tion that excessive cruelty and inhumanity do not pay. The Austrian jurist, Lammasch,[3] has recently written:

"After the conclusion of this war, all parties will have sufficient occasion to consider whether the direct advantages they have derived from acts justifiable or excusable only from the point of view of reprisal or of necessity outweigh the indirect disadvantages that they have incurred."

He cites the German jurist Zietelmann as saying: "In the great political game of the future every concession to humanity, the avoidance of rivalry in cruelties, will bring rich gain."

There is indeed one branch of international law that needs to be built up from the foundations, not because it has been overthrown in this war, but because its construction had hardly begun. This is the branch of the law that deals with the maintenance of peace. Its development will require limitation of the war-making power of the single states, not solely by self-imposed restrictions, but also by the law of nations. Proposals that are in process of formulation in many countries contemplate the prohibition of war in what are termed justiciable cases and the postponement of war in other cases. If a controversy between states turns upon a disputed interpretation of international law or of a treaty, or upon disputed facts, the matter is to be referred to a court of arbitration. If the controversy springs from a collision of interests, there is to be no resort to war until an attempt has been made by mediators to discover a settlement that may prove acceptable to both parties.

In the outbreak of most wars another factor is notoriously operative—a factor which may be associated either with disputed questions of law or of fact or with collisions of interests—the point of honor. In the opinion of some writers, the point of honor should be disregarded. This, in the present state of general feeling, seems impossible. According to other writers, this point also should be submitted to arbitration, in order that it may be determined by an impartial authority whether the honor of the aggrieved state has been impaired and how it shall

[3] *Das Völkerrecht nach dem Kriege* (Christiania, 1917), pp. 17 *et seq.*

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be rehabilitated. It is well known that in some countries, where duels are still fought, at least in certain social classes, similar arbitrations are found possible; but it must also be noted that, in many if not in most cases, the so-called courts of honor find that the only possible redress is by conflict. The majority of writers appear to hold that the point of honor can be dealt with only through mediation.

This program closely follows that by which feud was checked in early tribal society. Adjustment of quarrels without armed conflict was originally obtained only by direct negotiations or by mediation. Submission of such controversies to a court was originally a matter of agreement; it first became compulsory in minor cases; ages passed before feud was suppressed in cases of "blood and honor." It was not deemed cowardly that the offender should buy his peace, but that the wronged party should sell his vengeance seemed base. National feeling today is quite similar. When, for example, Italian citizens were lynched in New Orleans, our government was prompt to offer pecuniary compensation; but Italy was loath to accept any satisfaction save the punishment of the murderers.

All these proposed rules may be established by treaties. The United States, for example, has already negotiated many such treaties. They may be established by international congresses; but the resolutions of these congresses will be no more than treaties between each ratifying power and all the others. What security will there be against breaches of such treaties?

In minor matters such treaties will doubtless be generally observed. Nations rarely go to war for trifles; if trifling causes have been alleged, these have been pretexts. What guaranty will there be, however, that in disputes not justiciable, in collisions of interests in which national passions are fired by the assertion that the national honor is at stake, a powerful state will stay the march of its armies until mediators have considered alleged grievances, investigated disputed statements of facts and submitted to each nation concerned their findings and their plan of settlement? What convincing arguments can be opposed by statesmen to the military authorities, if these allege,

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as they always allege when they think themselves better prepared than their adversaries, that every day's delay strengthens the prospective enemy and lessens their own chance of victory?

It is proposed today in many quarters that the society of nations shall act collectively through permanent organs to enforce submission to the proposed rules. More or less elaborate schemes have been formulated for the establishment of the requisite organs. The idea is not new, nor is there much that is novel in these plans. Similar proposals have been made from time to time during the past six centuries. What is new is the wide support given to these plans and the endorsement they have received from responsible statesmen.

The crucial question is that of sanctions. We shall gain relatively little, it is urged, by establishing new international organs unless it is possible to give something more than moral authority to their decisions and mandates. The decision that a controversy is justiciable must be followed by some joint action of the civilized world against the state that refuses to submit its case to arbitration. The prohibition of hostile action in other cases, until reasonable time has been given for mediation, must be followed by some joint action against the state that refuses to obey the injunction. The first question is: What shall be the nature of the joint action? When this question is answered, a second arises: Can the joint action required be secured? Who shall coerce unwilling neutrals to join in coercing their quarrelsome neighbors?

This last question needs only to be stated to be answered. In the society of nations, as it exists today, any such general coercion is unthinkable. All that can be deemed feasible is to affirm the legal right and the moral duty of nations not primarily interested to join in penalizing breaches of the proposed rules. How far they will recognize such a duty and exercise such a right will depend in part upon the nature of the action they are expected to take.

On this point, there are many proposals. It is suggested that joint action should be confined to measures short of formal war. In case one party accepts and the other rejects arbitration; in

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case either party, after arbitration, refuses to accept the judgment of the arbiters; in case a state disregards the injunction to refrain from hostile action pending mediation, the states not primarily interested are to have the right and it shall be their duty, upon the outbreak of the war, to say to the offender: We shall allow no goods to be exported from our territories to yours and we shall permit you to float no loans within our jurisdiction. To the other party involved in war, they may and should say: You may draw from our territories whatever supplies you need, including munitions of war, and you may borrow from our citizens whatever funds they are willing to lend you. This differential treatment, it is suggested, may be carried further: the citizens of states not primarily interested may be forbidden to enlist in the army or navy of the offending state and may be encouraged to offer their services to its enemy.

Other supporters of coercion go much further. According to their plans, it shall be the right and the duty of the society of nations to take military action against the offending state. The economic sanctions are to be supported by the sanction of physical force. It is even suggested that a world army and a world fleet, composed of contingents furnished by the several states, shall be organized and held in readiness for immediate use against states that disregard the proposed international rules regarding arbitration and mediation. This proposal is not infrequently coupled with schemes for the reduction of national armaments.

It is to be noted that some at least of these proposals involve the establishment of a world government. It is not proposed to organize a world state with federal government, but there is to be something approaching a world confederacy. If this confederacy is to hold periodical legislative congresses; if it is to have a supreme court, a council of mediation, and a board clothed with a certain degree of executive authority—a board which in one of the plans is called (most unwisely, it seems to me) a "ministry"—and if it is to have a federal army and navy, it will have much of the outward semblance of a world state; and its powers —on paper, at least—will not be sensibly inferior to those exer-

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cised by some of the looser national confederacies that have existed in the past and that have finally developed into federal states. They will not be sensibly inferior to those exercised by our own Union under the Articles of Confederation.

That some such world organization will ultimately be established is not improbable. The development of law has always been accompanied and conditioned by the subjection of smaller to larger groups—of kinship groups to tribes, of tribes to small states, of small states to national states—and the development of international law may well bring similar subordination of the single states now sovereign to the authority of a world league. That any such world organization will be developed in the near future, few students of history and of politics will deem probable. The subordination of smaller to larger groups has always encountered intense and obstinate resistance—a resistance based on that human instinct which is most essential to efficient coöperation, the instinct of loyalty. When we remember what stretches of time have been needed to transfer allegiance from each smaller to each larger group, when we recall that, in most cases, this transfer of allegiance has been accomplished only through war, we may well conclude that it will be no easy task to imbue the people of the great modern national states with the conviction that they owe any real allegiance to humanity, and that it will be even harder to convince them that this allegiance is in any respect higher than that which they owe to their own national states.

It will be easier to carry resolutions through international congresses and to secure their general ratification than to establish new methods for their enforcement. It will be easier to obtain general recognition of the right of disinterested states to insist on arbitration or on mediation, when war seems imminent, and to participate in joint action against an aggressive state, than to secure formal pledges of eventual participation in such action. It will be less difficult to secure pledges to join in a boycott against future offenders than pledges to take part in military action. It will be far less difficult to establish permanent boards for arbitration, for investigation and for media-

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tion, than to clothe them with real powers. Plans for facilitating voluntary coöperation will encounter far less opposition than proposals that suggest the establishment of anything resembling a world government.

In pointing out some of the obstacles that will be encountered in any effort to organize the society of nations and to give more efficient sanction to its laws, it is far from my purpose to discourage such efforts. If they are wisely directed, I believe that substantial progress may be achieved. The temper of the world is far more favorable to such efforts than at any former period. Never before were the nations so closely knit together by material and spiritual bonds of every kind as in the years immediately preceding the outbreak of this war; never before has it been so convincingly demonstrated as during the past three years that the common interests impaired by war outweigh any separate and selfish interests that war can possibly promote; never before have neutrals so clearly seen that they have a vital concern in the maintenance of the world's peace. Until now, the attitude of neutral governments towards a war has resembled that taken in 1439 by the authorities of Namur towards a local feud. "If the kin of the slain man will and can avenge him, good luck to them, for with this matter the Schöffen have nothing to do, nor do they wish to be reported as having said anything about it."[4] In the present war our government found such a neutrality of thought and of word increasingly difficult, and neutrality in conduct was ultimately found to be impossible.

For the successful working of any international organization to maintain peace it is essential that every civilized state should not only claim the right but should also recognize the duty of aiding in its maintenance. This involves the acceptance of the international point of view, the development of the international mind. In this matter all who teach and write in the fields of history, sociology, economics, politics and law have grave duties. Never before, except possibly in the period of the French Revolution, have the dynamic potencies of what seemed

[4] Brunner, *Deutsche Rechtsgeschichte*, vol. I, sec. 21, note 11 (p. 159).

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abstract theories been so strikingly revealed. Many of the theories we have held are being tested, as never before, in the furnace of this greatest and most terrible of wars. Some of them have developed unforeseen and deplorable corollaries. It is our duty today to reëxamine our theories from the point of view of the interests of humanity. Let us ask ourselves whether they work for the welfare and the progress of the world; whether they tend to further the immemorial effort of humanity to rise from the mire of brute struggle for survival to the clean heights of a noble rivalry in common efforts for the general good.

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DECISIONS OF THE SUPREME COURT OF THE UNITED STATES ON CONSTITUTIONAL QUESTIONS

1914–1917

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In previous issues of this REVIEW[1] Professor Wambaugh and the late Judge McClain have summarized the decisions of the Supreme Court on constitutional questions from 1909 to 1914. It is the purpose of this and a succeeding paper to deal in like manner with the decisions of the last three years. Owing to the number of cases decided during the triennium, the writer must content himself with the rôle of annalist and refrain from assuming that of analyst. For the benefit of those who desire fuller comment or criticism, references are given to articles and notes in various legal periodicals discussing the more important cases.

Since the expiration of the October term of 1913, three changes have occurred in the personnel of the bench. Mr. Justice Lurton died July 12, 1914, and his successor, Mr. Justice McReynolds, took his seat October 12, 1914. Illness prevented Mr. Justice Lamar from participating in any of the decisions of

[1] *American Political Science Review* (1910) IV, 483–497; (1912) VI, 513–523; (1915) IX, 36–49. For useful reviews of decisions under the due-process and equal-protection clauses, see Francis J. Swayze, "Judicial Construction of the Fourteenth Amendment," 26 *Harvard Law Review* 1; Charles Warren, "The Progressiveness of the United States Supreme Court," 13 *Columbia Law Review* 294; and "A Bulwark to the State Police Power—The United States Supreme Court," 13 *Columbia Law Review* 667. For a chronological list of all the Supreme Court decisions on the fourteenth amendment see C. W. Collins: *The Fourteenth Amendment and the States* (Little, Brown & Co., 1912), Appendix E. For chronological and other lists of state and federal statutes declared unconstitutional by the Supreme Court see appendices in B. F. Moore: *The Supreme Court and Unconstitutional Legislation* (Columbia University Studies in History, Economics and Public Law, LIV, No. 2, Longmans, Green & Co., 1913).

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the October term of 1915. He died on January 2, 1916. The commission of Mr. Justice Brandeis, who succeeded him, was not recorded until June 5, 1916, so that during the 1915 term only eight justices participated in the work of the court. Mr. Justice Hughes resigned June 10, 1916, to accept the Republican nomination for the presidency, and his successor, Mr. Justice Clarke, took his seat on October 9, 1916. The bench as at present constituted consists of Chief Justice White, appointed associate justice by President Cleveland and chief justice by President Taft; Mr. Justice McKenna, appointed by President McKinley; Justices Holmes and Day, appointed by President Roosevelt; Justices Van Devanter and Pitney, appointed by President Taft; and the three new justices appointed by President Wilson.

During the last three years, as in the years immediately preceding, the commerce clause and the fourteenth amendment have raised by far the greater part of the important constitutional questions which the court has had to answer. And these are the questions on which the court gets the least light from the language of the Constitution. For the commerce clause contains no definition of what commerce is interstate, no indication of what shall be deemed a regulation of commerce, and no declaration with respect to the effect of the grant to Congress on the reserved powers of the states. The due-process and equal-protection clauses merely indicate that there is a boundary which legislative interference with individual liberty and property must not transgress. The lines of that boundary are marked out, not by the Constitution, but, as the Supreme Court has told us, "by the gradual process of judicial inclusion and exclusion, as the cases presented for decision shall require, with the reasoning on which such decisions may be founded."[2]

I. THE COMMERCE CLAUSE

The applications of the commerce clause include the determination of what commerce is foreign or interstate and what intrastate, and the determination of what constitutes a regulation of commerce. For it is familiar doctrine that not all state

[2] Davidson v. New Orleans (1878) 96 U. S. 97, 104.

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action which has some effect on interstate commerce amounts to a regulation thereof. In discussing state interferences with interstate commerce, the court uses the word "regulation" as a word of art to denominate only such factual regulations as have a direct effect on interstate commerce. Those state interferences with interstate commerce which merely incidentally affect such commerce are not called "regulations" thereof. The distinction is of course one of degree. The state may interfere with interstate commerce by the exercise of its taxing powers or by police regulations. In considering the applicability of state police regulations to commerce which is interstate, it is important to know whether or not Congress has dealt with the same subject. For though some state interferences are regarded as prohibited by the Constitution, others are within the power of the state unless there has been some congressional action which is deemed to preclude state legislation. In presenting the cases on interstate and foreign commerce, attention will first be given to those defining the power of Congress. This definition depends upon an interpretation, not only of the commerce clause, but also of the due-process clause of the fifth amendment. The cases involving the power of the states will be classified under the heads of taxation and the police power, and the latter head will be subdivided into state action in the absence of congressional regulation and state action after congressional regulation.

POWERS OF CONGRESS UNDER THE COMMERCE CLAUSE

The most important congressional statutes with which the court has had to deal in the last three years are the Webb-Kenyon Act and the Adamson Law. In Clark Distilling Co. v. Western Maryland Ry. Co.[3] the former was sustained and the

[3] (1917) 242 U. S. 311. Justices Holmes and Van Devanter dissented, without opinion. See D. O. McGovney, "The Webb-Kenyon Law and Beyond," 3 *Iowa Law Bulletin* 145; S. P. Orth, "The Webb-Kenyon Law Decision," 2 *Cornell Law Quarterly* 283; T. R. Powell, "The Validity of State Legislation Under the Webb-Kenyon Law," 2 *Southern Law Quarterly* 112; Lindsay Rogers, "The Webb-Kenyon Decision," 4 *Virginia Law Review* 558. See also notes in 17 *Columbia Law Review* 144, 30 *Harvard Law Review* 491, 1 *Minnesota Law Review* 179, and 26 *Yale Law Journal* 399.

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court thereby declared that it was within the power of Congress to prohibit the interstate transportation of intoxicating liquor intended by any person interested therein to be received, possessed, used or sold in violation of the law of the state of destination. Two years earlier in Adams Express Co. v. Kentucky[4] the court had held that the congressional act did not apply unless the liquor was intended to be used in violation of the law of the state of destination. The Clark Distilling case construes the act more broadly, although it does not make entirely clear whether a state can forbid receipt of liquor from other states unless it also forbids and penalizes its possession after receipt.

The most serious constitutional questions connected with the federal statutes dealing with interstate commerce in intoxicating liquor concern the powers of the states after congressional action designed to permit state interferences with such commerce. Rigorous adherence to the schematism of this article would allocate the discussion of this problem to the section dealing with state police power affecting interstate commerce after congressional regulation of the same subject matter.[5] But inasmuch as the effect of the other congressional action to be considered has been to lessen rather than enlarge the powers of the state, it will serve convenience if not logic to include at this point the cases dealing with the effect of the Wilson Act and the Webb-Kenyon Act on the power of the states to interfere with intoxicating liquor of extrastate origin.

Three cases annulling state interferences after the Wilson Act and before the Webb-Kenyon Law demonstrate the need of the latter to enable the states to effectuate their prohibition policies. Rossi v. Pennsylvania[6] held that the state could not punish the delivery within the state of liquor brought from other states to complete executory sales negotiated within the state.

[4] (1915) 238 U. S. 190. See 81 *Central Law Journal* 416, and 3 *Virginia Law Review* 143.

[5] See *infra* pp. 40–45.

[6] (1915) 238 U. S. 62. See Lindsay Rogers, "Interstate Commerce in Intoxicating Liquors Before the Webb-Kenyon Act," 4 *Virginia Law Review* 174.

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Rosenberger v. Pacific Express Co.[7] declared unauthorized by the Wilson Act a state statute imposing a prohibitive license tax on express companies bringing c.o.d. shipments of liquor into the state. The facts of this case arose before the passage of the act of Congress forbidding the interstate shipment of liquor under c.o.d. contracts.[8] Kirmeyer v. Kansas[9] held that Kansas could not enjoin as a nuisance a liquor business alleged to be conducted in Kansas, but which the court found was in contemplation of law conducted in Missouri, for the reason that all mail orders received in Kansas were taken to Missouri before being opened, and all liquor received by the dealer in Kansas was at once taken to a Missouri warehouse from which all Kansas orders were filled. The fact that the person conducting the business was domiciled in Kansas and kept there the wagons and teams used in the business was held to be immaterial.

The Adams Express case[10] gave rise to apprehensions that the Webb-Kenyon Act had not accomplished all that the arid states had desired. For it sustained the interpretation of the Kentucky court that the federal statute had no application unless the liquor shipped in interstate commerce was to be used in violation of some law of the state of destination. So a Kentucky statute forbidding the importation of liquor into dry territory was held incapable of interfering with liquor consigned to an intending consumer whose private use was not under the ban of Kentucky law. Since the Kentucky court had held that the prohibition of private, gentlemanly consumption of liquor would violate the inalienable rights of citizens of a free common-

[7] (1916) 241 U. S. 48. See 15 *Michigan Law Review* 168.

[8] Comp. Stat. 1913, Sec. 10,409.

[9] (1915) 236 U. S. 568. For other articles dealing with the problem of state prohibition laws and interstate commerce, see W. T. Denison, "States' Right and the Webb-Kenyon Liquor Law," 14 *Columbia Law Review* 321; Lindsay Rogers, "The Power of the States over Commodities Excluded by Congress from Interstate Commerce," 24 *Yale Law Journal* 567; Lindsay Rogers, "Unlawful Possession of Intoxicating Liquors and the Webb-Kenyon Act," 16 *Columbia Law Review* 1; C. R. Snyder, "Growth of State Power under the Federal Constitution to Regulate Traffic in Intoxicating Liquor," 25 *West Virginia Law Quarterly* 42; Charles H. Safely, in 4 *Iowa Law Bulletin* 221.

[10] *Supra*, note 4.

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wealth,[11] there seemed to be no way by which the Kentucky legislature could prevent interstate shipments direct to such consumers. But the Clark Distilling case, while professing to distinguish the Adams Express case, really discountenanced the previous interpretation given to the Webb-Kenyon Law. Under the later interpretation the Webb-Kenyon Law takes away the protection of the commerce clause from all liquor intended to be received and possessed in violation of the law of the state. But, since the West Virginia statute applied in the Clark Distilling case forbade possession after unlawful receipt, we do not yet know whether the Webb-Kenyon Law will allow a state, which does not prohibit and penalize possession as well as receipt, to prevent the invasion of its territory by liquor from other states.[12]

The Adamson Act was sustained in Wilson v. New.[13] The decision made it clear that the regulation of the contractual relations between employers and employees engaged in interstate commerce might be a regulation of the commerce in which they were engaged, thus discrediting somewhat the doctrine of Adair

[11] "The Bill of Rights which declares that among the inalienable rights possessed by the citizens is that of seeking and pursuing their safety and happiness . . . would be but an empty sound if the Legislature could prohibit the citizen the right of owning or drinking liquor, when in so doing he did not offend the laws of decency by being intoxicated in public." Judge Barker, in Commonwealth v. Campbell (1909) 133 Ky. 50. See 81 *Central Law Journal* 345, 28 *Harvard Law Review* 818, and 4 *Virginia Law Review* 236.

[12] Subsequent to the decision in the Clark Distilling case, Congress passed the so-called Reed Amendment (39 Stat. L. 1069) punishing any person who "shall order, purchase, or cause intoxicating liquors to be transported in interstate commerce . . . into any state or territory" whose laws "prohibit the manufacture or sale therein of intoxicating liquors for beverage purposes." The statute also contains a prohibition against liquor advertisements and the solicitation of orders for liquor. See J. K. Graves, "The Reed 'Bone Dry' Amendment," 4 *Virginia Law Review* 634.

[13] (1917) 243 U. S. 332. Three dissenting judges, Justices McReynolds, Pitney and Van Devanter, thought the act not a regulation of commerce. The two latter found the act wanting in due process both because of its substantive effects and because of the want of due consideration by Congress prior to its passage. This latter ground was the basis of the dissent of Mr. Justice Day. See A. A. Ballantine, "Railway Strikes and the Constitution," 17 *Columbia Law Review* 502; C. W. Bunn, "The Supreme Court on the Adamson Law," 1 *Minnesota Law Review* 395; C. K. Burdick, "The Adamson Law Decision," 2 *Cornell*

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v. United States[14] which declared that it was not a regulation of interstate commerce to forbid interstate carriers to discharge employees because of their membership in a labor union. It may be that the doctrine of Wilson v. New on the interstate commerce question must be limited to situations where there is failure of employers and employees to agree on a wage scale and where a threatened strike would, if consummated, seriously interrupt the commerce of the country. These considerations undoubtedly affected the majority of the court in holding that the law was not wanting in due process. The opinion of the chief justice on the due-process question not only seems to rely on these circumstances but is clearly conditioned on the facts that the wage scale fixed by Congress was for a limited period, was a compromise between the respective demands of the employers and employees, and did not deprive the carriers of a fair return on the fair value of their property. The chief justice is careful to point out that the case does not stand for any doctrine that the legislature can fix wages in businesses which are not public utilities, nor even in public-utility enterprises when there is no threatened interruption of the service.

In two cases sustaining congressional interference with foreign commerce the court went far towards declaring that Congress is subject to no limitations in this field. In Weber v. Freed[15] it was declared frivolous to contend that Congress could not prohibit the introduction into the country of films or other

Law Quarterly 320; A. M. Kales, "Due Process, the Inarticulate Major Premise and the Adamson Act," 26 *Yale Law Journal* 519; T. R. Powell, "The Supreme Court and the Adamson Law," 65 *University of Pennsylvania Law Review* 607. See also notes in 30 *Harvard Law Review* 739, and 26 *Yale Law Journal* 496. For articles written before the decision was rendered, see M. H. Lauchheimer, "The Constitutionality of the Eight-Hour Railroad Law," 16 *Columbia Law Review* 554; T. R. Powell, "Due Process and the Adamson Law," 17 *Columbia Law Review* 114. See also 30 *Harvard Law Review* 63.

[14] (1908) 208 U. S. 161.

[15] (1915) 239 U. S. 325. In Pantomimic Corporation v. Malone (1916) 238 Fed. 135, it was held that a picture was brought into the United States when films in Canada were photographed by a camera in the United States. No corporeal object crossed the border. See note in 84 *Central Law Journal* 191. To a similar effect is United States v. Johnston (1916) 232 Fed. 970. See 19 *Law Notes* 44, and 20 *Law Notes* 162.

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pictorial representations of prize fights. The power of Congress over foreign commerce was referred to as "complete," thus implying that it could prohibit the importation of any articles that it pleases. The allegation that the motive of Congress was to prohibit the exhibition of the pictures and thus to invade the domain of state authority was said to be something that the court could not inquire into. It was pointed out that if the contrary were sustained no congressional prohibition would be valid.

In Brolan v. United States[16] it was held that the contention that Congress could not constitutionally punish the knowing receipt, concealment or facilitation of transportation of opium which had been successfully imported from a foreign country in violation of the federal statute was too unsubstantial and frivolous to justify a writ of error from the Supreme Court to the district court.[17] The chief justice declared that, since the power of Congress to prohibit the importation was absolute, "it must endure and reach beyond the mere capacity of persons to evade its commands to the control of those things which are essential to make the power existing and operative." Cases relating to interstate commerce which were cited by counsel for the defendant were dismissed because of the "broad distinction which exists between the two powers." This declaration negatives the doctrine countenanced in some opinions to the effect that the congressional power over interstate commerce is as plenary as that over foreign commerce.[18] The sound basis for a distinction between congressional power over foreign commerce and that over commerce among the several states would seem to rest, not in the commerce clause, but in the due-process

[16] (1915) 236 U. S. 216.

[17] For an interpretation of the federal statute regulating, through a combination of the commerce and the taxing power, the sale and use of drugs, see United States v. Jin Fuey Moy (1916) 241 U. S. 394. The statute was sustained in United States v. Brown (1915) 224 Fed. 135. See 64 *University of Pennsylvania Law Review* 502.

[18] "The power conferred upon Congress to regulate commerce among the states is indeed contained in the same clause of the Constitution which confers upon it power to regulate commerce with foreign nations. The grant is conceived in the same terms, and the two powers are undoubtedly of the same class

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clause. A complete embargo on foreign commerce would be due process while such an embargo on interstate commerce would not. Therefore congressional interferences with interstate commerce require justifications not necessary for the prohibition of any foreign commerce.

In distinguishing the Brolan case from Keller v. United States,[19] which declared that Congress could not punish the harboring of alien prostitutes, the court pointed out that the statute in the Keller case was not confined to the harboring of those who entered the country unlawfully, and called attention to the amended statute which was applicable only to the harboring of those immoral aliens who had come to the United States in violation of the prohibitions of the statute, thus lending color to the implication that the amended statute would be sustained.

Another statute dealing with alien prostitutes came before the court in United States v. Lombardo.[20] This enactment made it a crime for the harborer of an alien prostitute to fail to file with the commissioner general of immigration a statement giving the facts connected with such harboring. The district court had held that the statute violated the fourth and fifth amendments as well as the sixth. The Supreme Court confined its attention to the sixth amendment. It held that the offense of failure to file could be committed only in the district where the statement was to be filed, and therefore dismissed a prosecution begun in the district where the harborer was domiciled. Previously it had been held in United States v. Portale[21] that the requirement of the statute was not confined to those who have had to do directly or indirectly with the bringing in

and character and equally extensive." Mr. Justice Matthews in Bowman v. Chicago and Northwestern R. Co. (1888) 125 U. S. 465, 482. "It has frequently been laid down by this court that the power over interstate commerce is as absolute as it is over foreign commerce." Mr. Justice Bradley in Crutcher v. Kentucky (1891) 141 U. S. 47, 57. See also Champion v. Ames (1903) 188 U. S. 321, 351.

[19] (1909) 213 U. S. 318.

[20] (1916) 241 U. S. 73.

[21] (1914) 235 U. S. 33.

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or sending forth of the alien. In neither of these cases was the constitutionality of the statute directly in issue.

In dealing with the section of the White Slave Act relating to interstate commerce, Caminetti v. United States[22] held that the statute forbade the transportation of a woman for immoral purposes even though the immorality was unaccompanied by expectation of pecuniary gain, and that the statute thus interpreted and applied was constitutional. Other cases involving the exertion of federal power over interstate commerce held that Congress could make contraband of interstate commerce drugs contained in packages bearing false labels as to their curative qualities,[23] and could create a right of action in favor of an employee of an interstate carrier injured through a violation of the federal Safety Appliance Act, even though such employee was not engaged in interstate commerce.[24] The cases deciding whether plaintiffs suing under the federal Employers' Liability Act were engaged in interstate or intrastate commerce are too numerous to mention.[25] But the fact that a litigant must be in doubt as to the kind of commerce in which he is en-

[22] (1917) 242 U. S. 470. Chief Justice White and Justices McKenna and Clarke dissented on the question of interpretation. The opinion of Mr. Justice McKenna contains an interesting analysis of the problem of interpreting the meaning of a statute. See 84 *Central Law Journal* 171, 3 *Cornell Law Quarterly* 60, 30 *Harvard Law Review* 494, 15 *Michigan Law Review* 425. In United States v. Holte (1915) 236 U. S. 140, it was held, Justices Lamar and Day dissenting, that the woman transported in violation of the statute could be punished for conspiracy to commit a crime against the United States. See 80 *Central Law Journal* 194.

[23] Seven Cases v. United States (1916) 239 U. S. 510. See 82 *Central Law Journal* 172. For the application of the federal Food and Drugs Act to Coca Cola, see United States v. Forty Barrels (1916) 241 U. S. 265.

[24] Texas & Pacific Ry. Co. v. Rigsby (1916) 241 U. S. 33. See 82 *Central Law Journal* 385, and 2 *Virginia Law Register*, n. s. 388.

[25] For a list of cases holding that the employee was engaged in interstate commerce see the brief for the plaintiff in error in Erie Railroad Co. v. Welsh (1916) 242 U. S. 303, as printed in 61 Lawyers' Edition 319–322. See notes in 82 *Central Law Journal* 421, 84 *Central Law Journal* 154, 15 *Michigan Law Review* 157. The cases on this question for the past three years will be found in the General Index at the end of volumes 59, 60, and 61 of the Lawyers' Edition of the Supreme Court Reports under the title "Master and Servant," subtitle "Employers' Liability Act."

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gaged until he learns from the Supreme Court several years after his injury or death, indicates a most unsatisfactory feature of the existing partition of the law of torts between the state and national governments. This will be even more apparent when we consider the cases holding that state workmen's compensation laws cannot apply to injuries within the scope of the Employers' Liability Act or of the admiralty jurisdiction of the federal courts.[26]

The other cases touching the power of Congress over commerce merely reiterate and apply familiar doctrines. Essex v. New England Telegraph Co.[27] held that Congress could give telegraph companies the right to maintain lines along military and post roads, secure from arbitrary interference by the state. This case was not based directly on the commerce clause, but that clause might be the basis for statutes applying specifically to telephone companies conducting an interstate business. Louisville Bridge Co. v. United States[28] held that the continuing power of Congress over interstate commerce included authority to compel the alteration of a bridge over a navigable highway of the United States, even though such bridge had been erected under previous congressional authority, had been recognized as a post road of the United States and had complied with all previous laws of Congress. The franchise previously granted was held not to be irrepealable. Therefore no vested right was interfered with by making the owner pay the cost of the alterations. The case also sustained the delegation of power to the secretary of war to determine what would constitute an unreasonable interference with navigation, and said that there was "no real inconsistency between a declaration by Congress in 1865 that a certain bridge was a lawful structure and not an improper impediment to navigation, and a contrary finding by the secretary of war in the year 1914." The contention that Congress had less power over bridges erected under federal authority than over those sanctioned by the states was said to be without merit.

[26] See *infra*, pp. 41–45.
[27] (1915) 239 U. S. 313.
[28] (1917) 242 U. S. 409.

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United States v. Nice[29] held that Congress may forbid the sale of liquor to Indians in a state so long as they remain tribal Indians under national guardianship. American Express Co. v. South Dakota[30] held that Congress could and did invest the interstate commerce commission with power to direct the alteration of intrastate rates when this was necessary to remove a discrimination against interstate commerce. And Thomson v. Cayser[31] declared invalid under the Sherman Act a combination of ocean carriers which gave rebates to those who shipped exclusively by the associated lines. It is perhaps worthy of note that no cases of great public interest have been passed upon by the Supreme Court under the Sherman Act during the past three years.[32] Cases now pending, however, may give us during the present year more light on the intricate and confused problem of determining what restraints of trade are within and what without the "rule of reason" announced in the Standard Oil and Tobacco cases.

[29] (1916) 241 U. S. 591.

[30] (1917) 244 U. S. 617. Mr. Justice McKenna dissented.

[31] (1917) 243 U. S. 66.

[32] For other cases involving interpretations or applications of the Sherman Act see United Copper Securities Co. v. Amalgamated Copper Co. (1917) 244 U. S. 461; Paine Lumber Co. v. Neal (1917) 244 U. S. 459; United States v. American Asiatic S. S. Co. (1917) 242 U. S. 537; Fleitmann v. Welsbach Street Lighting Co. (1916) 240 U. S. 27; Lawlor v. Loewe (1915) 235 U. S. 522; D. R. Wilder Mfg. Co. v. Corn Products Co. (1915) 236 U. S. 165. In cases interpreting the patent statute it has been held that the monopoly of the patentee does not include the right to restrict the resale price of patented articles, Straus v. Victor Talking Machine Co. (1917) 243 U. S. 490, or to prescribe the materials with which patented articles may be used, Motion Picture Patents Co. v. Universal Film Manufacturing Co. (1917) 243 U. S. 502. Thus such restrictions imposed by the patentee must be created by collateral contract, and the contract must pass muster under the Sherman Act and its amendments. See E. P. Grosvenor, "The 'Rule of Reason' as Applied by the United States Supreme Court to Commerce in Patented Articles," 17 *Columbia Law Review* 208; T. R. Powell, "The Nature of a Patent Right," 17 *Columbia Law Review* 663. See also 17 *Columbia Law Review* 543, and 31 *Harvard Law Review* 298.

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THE COMMERCE CLAUSE AND THE POWERS OF THE STATES

A. State taxation and interstate commerce

Prior to 1910 it had been assumed that any state tax on a foreign corporation for the privilege of engaging in intrastate commerce within the state would be valid. But, in Western Union Telegraph Co. v. Kansas[33] and Ludwig v. Western Union Telegraph Co.,[34] taxes imposed by Kansas and Arkansas on the intrastate commerce done by a foreign corporation engaged also in interstate commerce were declared invalid because they were measured by the total capital stock of the corporation. The method by which the amount of the tax was determined was held to make the imposition an invalid regulation of interstate commerce, in spite of the fact that the subject on which the tax fell was not immune from the power of the state. After these decisions Kansas and Arkansas amended their statutes. The new Kansas statute, as interpreted by the state court, selected as the measure of a tax on foreign corporations for the privilege of doing local business, not the total capital stock, but only such proportion thereof as was represented by property in Kansas employed in purely local business. In addition there was a provision that the maximum imposition in any one year should be $2500. This statute was sustained in Lusk v. Botkin.[35] The Arkansas statute was similar, except that there was no maximum limit set to the amount which might be charged. In St. Louis S. W. R. Co. v. Arkansas[36] the court applied this statute and upheld a tax of $6798.26 on a foreign corporation whose property owned and used in the state for intrastate commerce was valued at $13,586,520.

The amended Kansas statute measured the tax on the franchises of domestic corporations by the total capital stock as before, but here also limited the annual imposition to $2500. This was sustained in Kansas City, F. S. & M. R. Co. v. Botkin.[37]

[33] (1910) 216 U. S. 1.
[34] (1910) 216 U. S. 146.
[35] (1916) 240 U. S. 236.
[36] (1914) 235 U. S. 350.
[37] (1916) 240 U. S. 227.

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The opinion of the court seemed to assume that the doctrine that a tax on a proper subject might be invalid because of the measure adopted for determining its amount applied to the taxation of domestic as well as of foreign corporations. It declared that "every case involving the validity of a tax must depend upon its own facts," and that the question was whether the operation and effect of the statute as enforced could be regarded as imposing a burden on interstate commerce. In view of the fact that the maximum charge was $2500, it found "no ground for saying that a tax of this character, thus limited, is in any sense a tax imposed upon interstate commerce."

The Arkansas statute applicable to domestic corporations was like the Kansas statute, except that no maximum was set. This too was sustained in Kansas City, M. & B. R. Co. v. Stiles[38] in an opinion which by its reliance on Ashley v. Ryan[39] seems to indicate that the franchises of domestic corporations may be taxed as the state pleases, even though the corporation is engaged in interstate as well as intrastate commerce. Thus the doctrine announced by the Western Union cases in 1910 appears to be limited to foreign corporations. The moderation of Kansas as compared with Arkansas may have been influenced by the fact that one of the reasons for sustaining, in Baltic Mining Co. v. Massachusetts,[40] a tax on foreign corporations measured by total capital stock was that the maximum imposition was $2500. The subsequent cases sustaining and applying the Arkansas statutes show that no maximum is necessary where the tax on foreign corporations is measured by that part of the capital represented by property used in the state for local business or where the tax on domestic corporations is measured by the total capital stock.

A tax on domestic corporations measured by receipts from intrastate transportation was upheld in New York *ex rel.* Cornell Steamboat Co. v. Sohmer.[41]

[38] (1916) 242 U. S. 111.

[39] (1894) 153 U. S. 436.

[40] (1913) 231 U. S. 68. For a note on the validity of an amendment to the Massachusetts statute sustained in this case, see 16 *Michigan Law Review* 246.

[41] (1915) 235 U. S. 549.

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In other cases relating to interstate commerce it was held that a state could not impose a privilege tax on a liquor business within the state which consisted solely in soliciting and filling mail orders from customers in other states,[42] or on agents of a nonresident portrait manufacturer who delivers within the state portraits sent from without the state, even though the agent also offers customers a choice of frames at the time of delivering the pictures.[43] Though the sale of the frames was an intrastate matter, it was treated as a part of the interstate transaction within the doctrine previously announced by Mr. Justice Holmes that "commerce among the several states is a practical conception, not drawn from the 'witty diversities' of the law of sales."[44] Similarly it was held, in Western Oil Refining Co. v. Lipscomb,[45] that a state privilege tax could not be imposed on a foreign corporation shipping oil and steel into the state, though the cars in which the merchandise was shipped were billed to one town in the state, from which orders taken there were filled, and were then rebilled to another town to fill other orders, since the intrastate transportation was both in fact and in law a connected part of a continuous interstate movement.

Two cases upholding state requirements on motor vehicles from other states involve a combination of the police power and the taxing power. Hendrick v. Maryland[46] sustained a state statute requiring the registration of motor vehicles and a license fee graded according to the horse power of the engine, and applied it to motor vehicles owned in other states using the highways of the state on an interstate journey. The propriety of requiring the license seemed to be based on the absence of congressional legislation covering the subject; but

[42] Heyman v. Hays (1915) U. S. 178; Southern Operating Co. v. Hays (1915) 236 U. S. 188.

[43] Davis v. Virginia (1915) 236 U. S. 697. See 1 *Virginia Law Register*, n. s. 235.

[44] Rearick v. Pennsylvania (1906) 203 U. S. 507. See H. H. Foster, "What is Left of the Original Package Doctrine," 1 *Southern Law Quarterly* 303.

[45] (1917) 244 U. S. 346.

[46] (1915) 235 U. S. 610. See 80 *Central Law Journal* 123, and 51 *National Corporation Reporter* 140.

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the imposition of the fees was justified on the ground that automobiles used a facility constructed by the state at great expense, and that such use was abnormally destructive to such facilities and thereby increased the expense to the state in providing them. Apparently such exactions in return for the use of state facilities would be proper even though Congress had so acted that no license could be required. The statute contained a provision whereby nonresident operators of automobiles who had complied with the laws of the state in which they reside might, on certain conditions, obtain permission to operate their machines in Maryland for not exceeding two periods of seven consecutive days in a calendar year without paying the ordinary fees for registration and operator's license. This provision did not apply to residents of the District of Columbia, but the plaintiff in error, though a resident of the District, was held disentitled to complain of this discrimination because he had not himself complied with the laws of the District or with the conditions attached to the grant of the privilege to residents of other states.

Kane v. New Jersey[47] involved a similar statute, but without any reciprocal provision in favor of nonresidents whose cars are duly registered in their own state. The absence of such a provision was held unimportant. There was said to be no discrimination against nonresidents by making them pay the full annual fee for a brief use of the state highways, since residents had to pay the annual fee however little they used their machines. In this reasoning Mr. Justice Brandeis seemed to sacrifice substance to form. Nonresident owners were also required to secure a license and to appoint the secretary of state their agent upon whom process might be served in any legal proceedings occasioned by the operation of their machines within the state. But this and the further fact that Kane was driving through, and not merely into, New Jersey were held not sufficient to differentiate the New Jersey statute from that of Maryland.

[47] (1916) 242 U. S. 160.

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B. State police power and interstate commerce

(a) In absence of congressional regulation

Five cases held state action an unwarranted interference with interstate commerce, even though the state statutes conflicted with no congressional regulation. Chicago, B. & Q. R. Co. v. Railroad Commission[48] annulled an order of the Wisconsin Railroad Commission requiring a railroad running only interstate trains to stop at least two trains each way each day at every village having two hundred or more inhabitants. Seaboard Air Line Railway Co. v. Blackwell[49] held inapplicable to interstate trains a state requirement that every engineer shall check the speed of his train when four hundred yards from every public crossing and slow down so as to stop in time to avoid any person or thing crossing on the track. The decision was influenced by the facts as to the number of such crossings in the state and the absence of conditions making them peculiarly dangerous. It appeared that the statute would add three minutes per crossing to the running time of interstate trains and thereby double the time of traversing the state.

South Covington & C. Street R. Co. v. Covington[50] annulled a requirement as to the number of cars to be provided by an interstate street railway and as to the number of persons to be admitted to each car, since it appeared that this would require more cars than the company would be permitted to operate in the city of an adjoining state. Sioux Remedy Co. v. Cope[51] held that South Dakota could not impose on foreign corporations desiring to bring suit in state courts for money due for merchandise shipped in interstate commerce the condition that such corporation must first appoint a resident agent upon whom process could be served, and file with the designated state officer

[48] (1915) 237 U. S. 220. See 19 *Law Notes* 52.

[49] (1917) 244 U. S. 310. The chief justice and Justices Pitney and Brandeis dissented.

[50] (1915) 235 U. S. 537.

[51] (1914) 235 U. S. 197. See 49 *American Law Review* 601, 63 *University of Pennsylvania Law Review* 433, and 2 *Virginia Law Review* 470.

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a copy of such appointment and a copy of its charter, paying certain fees for such filing. The result of this decision was to compel South Dakota residents having claims for breach of contract against the foreign corporation to go to the domicil of the corporation to bring suit unless some creditor or property of the corporation could be found within the state. But of course the foreign corporation, subject to the same qualifications, had to go to the domicil of its debtors to collect what was due.

Donald v. Philadelphia & R. Coal and Iron Co.[52] forbade a state to exclude from local business a foreign corporation engaged in interstate commerce which removed to the federal courts a suit brought against it in the state court. The opinion seemed to go on the ground that the statute interfered with the constitutional right to remove cases to the federal courts and warrants the inference that the same decision would have been reached had the corporation in question not been engaged in interstate commerce. It thus lays the basis for overruling Security Mutual Life Insurance Co. v. Prewitt[53] when a case not involving interstate commerce shall again arise for decision.

More numerous were the cases in which state action was held not to interfere with interstate commerce. Interstate Amusement Co. v. Albert[54] sustained the dismissal of a suit in a state court brought by a foreign corporation which had failed to file a copy of its charter with the secretary of state. The plaintiff made bookings for theatrical troupes within the state. The state court found that such interstate commerce as took place as a result of plaintiff's contracts was merely incidental to those contracts, and the Supreme Court sustained the ruling because the evidence before the state court did not clearly show otherwise. It is quite likely that if the case had been better presented by counsel it would be found to come within the doctrine of Sioux Remedy Co. v. Cope.[55] In that case, however, the foreign corporation did not enter the state at all.

[52] (1916) 241 U. S. 329.
[53] (1906) 202 U. S. 246.
[54] (1916) 239 U. S. 560.
[55] *Supra*, note 51.

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It merely shipped goods into the state. Here the corporation was within the state evidently doing business which was partly intrastate and partly interstate. Whether such a corporation which disregards the state law as to filing its certificate could be restrained from suing on a contract of interstate commerce is exceedingly doubtful. Disobedience of the lawful requirement as to intrastate business can hardly justify a state interference with interstate commerce, and conditions imposed on the right to sue in state courts are held by the Cope case to be interferences with the commerce out of which the cause of action arose. The opinion in the Albert case makes no mention of the provision in the state statute that foreign corporations filing the required certificate should be treated as within the jurisdiction as fully as if it were a domestic corporation, though the statute to this effect is quoted in the margin.

Several of the cases related to alleged undue interferences with interstate trains. It was held that, in the absence of congressional regulation on the subject, the state could require all locomotives to be equipped with headlights of not less than 1500 candle power;[56] could forbid switching operations across public crossings in cities of the first or second class with a switching crew of less than one engineer, a fireman, a foreman and three helpers;[57] and could require suitable guard rails for, and proper cleanliness and ventilation of, the cars of a street railway company engaged principally in interstate commerce.[58] But this last decision held unreasonable a requirement that the cars be kept heated at a temperature not below fifty degrees Fahrenheit when it appeared that the necessary opening of doors made this impracticable. This portion of the decision seemed independent of the commerce clause, but that clause was the foundation for the decision that requirements as to the number of cars were invalid, since they would necessarily interfere with the conduct of the business in other states.[59]

[56] Vandalia Railroad Co. v. Public Service Commission (1916) 242 U. S. 255.
[57] St. Louis, I. M. & S. R. Co. v. Arkansas (1916) 240 U. S. 518.
[58] South Covington & C. Street R. Co. v. Covington, *supra*, note 50.
[59] *Supra*, p. 33.

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By construing the Oklahoma separate-coach law as applying only to intrastate commerce, the court was relieved from considering whether it was an unlawful regulation of interstate commerce.[60] In Chicago, M. & St. P. R. Co. v. State Public Utilities Commission,[61] a state regulation of a local rate was sustained in the absence of any showing that it resulted in giving commercial advantages to domestic shippers and producers over those from other states. And in Wilmington Transportation Co. v. Railroad Commission[62] the absence of federal regulation was held to leave the state free to prescribe rates for the transportation of passengers by sea between two ports in the same state, although the course of such transportation was over the high seas.

In Illinois Central Railroad Co. v. Mulberry Hill Coal Co.[63] a state statute requiring an interstate railway company to furnish cars to shippers within a reasonable time after demand was made the basis for an action by the shipper for recovery of damages for failure to furnish cars at his mine for interstate transportation of his coal, where the state court had held that the question of what is a reasonable time in any case depends upon all existing circumstances including the requirements of interstate commerce. The case is treated as though it arose in the absence of congressional action on the subject of furnishing cars for interstate commerce shipments. The railroad contended in the Supreme Court that the state statute even though originally valid was rendered inapplicable by the Hepburn Act, but the claim was dismissed from consideration because it had not been raised in either of the state courts. If duly raised, it would seem that the claim should be sustained. But the plaintiff could then amend or bring another action relying on the Hepburn Act.

[60] McCabe v. Atchison, T. & S. F. R. Co. (1914) 235 U. S. 151. See 49 *American Law Review* 600.

[61] (1917) 242 U. S. 333.

[62] (1915) 236 U. S. 151. See 28 *Harvard Law Review* 634. A note to the decision in the state court will be found in 2 *California Law Review* 231.

[63] (1915) 238 U. S. 275.

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Pennsylvania Railroad Co. v. Sonman Shaft Coal Co.[64] shows that the state court could entertain such an action under the federal statute. In this case the state court had held that the Hepburn Act did not apply because the request was for cars for coal sold f.o.b. at the mine, and the commerce involved was intrastate even though the coal was going to purchasers outside the state. But the Supreme Court ruled that this was error, quoting its declaration six months earlier in Pennsylvania Railroad Co. v. Clark[65] to the effect that "the movement thus initiated is an interstate movement and the facilities required are facilities of interstate commerce."

Three cases involved state statutes relating to food. Price v. Illinois[66] permitted a state to forbid the sale of food preservatives containing boric acid and to apply the prohibition to small envelopes suitable for the consumer where it did not appear that these envelopes were segregated in commercial shipments into the state or were separately introduced. The citation of previous authorities indicated that the court would not have regarded the envelope as a legitimate commercial package even if each envelope had been separately introduced into the state. In Armour & Co. v. North Dakota[67] a state statute requiring lard sold at retail to be put in one, three, or five-pound packages, when applied to retail sales not in the original package, was held valid.

Sligh v. Kirkwood[68] involved a statute forbidding the shipment from the state of citrous fruits which are immature or otherwise unfit for consumption. The purpose of the statute was recognized to be the economic one of protecting the reputation of Florida oranges in the markets of other states. This

[64] (1915) 242 U. S. 120. See 84 *Central Law Journal* 25, and 65 *University of Pennsylvania Law Review* 368.

[65] (1915) 238 U. S. 456.

[66] (1915) 238 U. S. 466.

[67] (1916) 240 U. S. 510. For further consideration of this case, see *infra*, p. 40.

[68] (1915) 237 U. S. 52. See 80 *Central Law Journal* 361, 19 *Law Notes* 52, and 13 *Michigan Law Review* 698. This case and the one preceding held also that the states were not foreclosed from passing their statutes because of the federal Food and Drugs Act.

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was held to be a legitimate object of state action, and the fact that the embargo incidentally affected interstate commerce was held to be immaterial so long as Congress had not acted. The court did not squarely assert that such unripe fruits were unmerchantable and therefore not subjects of commerce. It implied that if a case arose where the desired shipment was for commercial purposes and not for consumption the decision might be different. The statute seems to have presented a question not answered by previous decisions. It can hardly be regarded as an instance of indirect effect on interstate commerce. The effect is as direct as is the prohibition against sending oil or natural gas from the state, which is held unconstitutional.[69] The case shows pretty clearly that what the court considers in dealing with state interferences with interstate commerce is whether the effectuation of the local policy outweighs in importance the resulting disadvantage of clogging somewhat the channels of interstate commerce. The judgment in Sligh v. Kirkwood invites comparison with that in Heyman v. Hays[70] refusing to allow the states to tax the business of selling liquor to customers in other states.

The commerce clause was unsuccessfully invoked by objectors to state legislation against trading stamps,[71] and state regulation of the sale of securities[72] and the exhibition of motion pictures.[73] The motion-picture statutes required administrative inspection and approval as a condition prerequisite to the exhibition of the films within the state. Mr. Justice McKenna said that "it would be straining the doctrine of original

[69] West v. Kansas Natural Gas Co. (1911) 221 U. S. 229.

[70] *Supra*, note 42.

[71] Rast v. Van Deman & Lewis Co. (1916) 240 U. S. 342. See 25 *Yale Law Journal* 670.

[72] Hall v. Geiger-Jones Co. (1917) 242 U. S. 539; Caldwell v. Sioux Falls Stock Yards Co. (1917) 842 U. S. 559; Merrick v. N. W. Halsey Co. (1917) 242 U. S. 568. Mr. Justice McReynolds dissents in all three cases, but without opinion, so it is impossible to tell whether his dissent is based on the commerce clause or on the fourteenth amendment or on both. See 80 *Central Law Journal* 175, and 17 *Columbia Law Review* 244.

[73] Mutual Film Corporation v. Industrial Commission (1915) 236 U. S. 230; Mutual Film Corporation v. Hodges (1915) 236 U. S. 248.

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packages to say that the films retain that form and composition even when unrolling and exhibiting to audiences, or, being ready for renting for the purpose of exhibition within the state, could not be disclosed to the state officers." Since the state law punishes only unlicensed exhibition, it is not important that the "exchanges" which receive the films from other states "can more conveniently submit the films for approval than exhibitors can."

"Blue Sky" legislation was said to impose only an indirect or incidental burden on interstate commerce, which was entirely proper so long as Congress had not acted. The opinion of the court raised several interesting questions as to when choses in action "cease migration in interstate commerce and settle to the jurisdiction of the state." It suggested the possibility that nothing more was necessary for the supremacy of the national power than that the securities be kept free from state interference when in actual transportation, but the point was not definitely passed upon. The court seemed clear that the original-package doctrine could not be applied in its full rigor to choses in action represented by printed documents. But the case went on the ground that, even conceding that the securities were "still in interstate commerce after their transportation to the state is ended and they have reached the hands of dealers in them, their interstate character is only incidentally affected" by regulations designed to prevent the sale within the state of those that are fraudulent.

The contention that the license fee on merchants issuing trading stamps was a regulation of interstate commerce was confined to the instances where the trading stamps were inserted in the retail packages by extrastate manufacturers or shippers and were redeemed by them or by some other concern outside the state. But the court answered that this claimed for the manufacturer outside the state the right not only to introduce into the state the original packages containing the coupons, but also to have them disposed of through retail sales within the state. This latter claim was said to be without foundation in the commerce clause.

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(b) After congressional regulation

State action affecting interstate commerce is not necessarily precluded by congressional regulation of the same subject. Such state interference must, however, not impose a direct burden on interstate commerce and must not be inconsistent with the requirements laid down by Congress. In several cases these qualifications of valid state action were held to have been satisfied. Michigan Central Railroad Co. v. Michigan Railroad Commission[74] sustained an order of a state railroad commission compelling an interurban electric railroad and a steam railroad to interchange cars, passenger traffic, etc., at the point of their intersection. The order applied only to intrastate commerce. The Supreme Court held that it would assume, until the contrary was made to appear, that compliance with the order involved no disregard of the needs of interstate commerce. Similarly in Missouri Pacific Railway Co. v. McGrew Coal Co.[75] it was held that an unconstitutional interference with interstate commerce did not necessarily result from a state requirement that railroad companies should not charge more for shorter than for longer intrastate hauls.

In Armour & Co. v. North Dakota[76] a state statute requiring lard sold at retail to be put up in packages of prescribed weights was held not to be repugnant to the federal Food and Drugs Act, which was directed merely against adulteration and misbranding of articles of food transported in interstate commerce. One who complied with the federal act might violate the state act, but Congress had not intended to cover all possible regulation by dealing with the specified evils of adulteration and misbranding. And in Selling v. Radford[77] it was declared that the federal Employers' Liability Law did not pre-

[74] (1915) 236 U. S. 615.

[75] (1917) 244 U. S. 191.

[76] *Supra*, note 67. See also Sligh v. Kirkwood, *supra*, note 68. The decisions holding that federal regulation has not inhibited by implication the exercise by the states of their reserved police power are summarized in detail in the margin of the dissenting opinion of Mr. Justice Brandeis in New York C. R. Co. v. Winfield (1917) 244 U. S. 147, 156.

[77] (1917) 243 U. S. 43.

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vent the application of state workmen's compensation statutes to employees of carriers engaged in interstate commerce, so long as the employee was not himself engaged in such commerce and could not therefore under any circumstances sue under the federal law.

Where, however, the employee of an interstate carrier is himself engaged in interstate commerce, his rights under the federal Employers' Liability Act for injuries occurring in such interstate commerce are all that he has. New York C. Ry. Co. v. Tonsellito[78] held that the common-law right of the father of a minor son to recover for expenses incurred for medical attention to the son and for loss of the son's services did not survive the enactment of the federal statute. The congressional enactment furnishes the only existing law regulating the liabilities of interstate carriers to employees injured while engaged in interstate commerce.

In New York Central Railroad Co. v. Winfield[79] and in Erie Railroad Co. v. Winfield,[80] the federal statute was held to preclude the operation of state workmen's compensation laws to interstate commerce injuries. Mr. Justice Brandeis, dissenting, urged that the purpose of the federal enactment was confined to the abolition of the common-law defenses of the fellow-servant rule and the doctrines of contributory negligence and assumption of risk in cases where the defendants were negligent. He argued that it was not "the purpose of the act to deny to the states the power to grant *the wholly new right* to protection or relief in the case of injuries suffered otherwise than through fault of the railroads." But only Mr. Justice Clarke concurred in this interpretation. The majority held that Congress intended the statute to be "as comprehensive of those instances in which it by silence excludes liability as of those where liability is imposed."

[78] (1917) 244 U. S. 360.

[79] (1915) 244 U. S. 142. See 3 *Cornell Law Quarterly* 45, and 2 *Minnesota Law Review* 49. For notes on the decision in the state court see 82 *Central Law Journal* 43, 1 *Cornell Law Quarterly* 272, 29 *Harvard Law Review* 439, and 64 *University of Pennsylvania Law Review* 304.

[80] (1917) 244 U. S. 170.

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Mr. Justice Van Devanter observed that the liability of interstate carriers in such respects is a matter "in which the nation as a whole is interested and [that] there are weighty considerations why the controlling law should be uniform and not change at every state line." Quoting from Prigg v. Pennsylvania[81] he said that the silence of Congress "as to what it does not do is as expressive of what its intention is as the direct provisions made by it." The interpretation of silence is of course not a literary task. Sometimes silence is held to give consent, sometimes to imply refusal. Whether Congress meant its rules to cover only cases of negligence or to cover all cases of injury and to limit recovery to injuries due to negligence is impossible of ascertainment, since probably Congress did not think about workmen's compensation legislation at all.

What Professor Munroe Smith has said about the work of the Supreme Court in the interpretation of the Constitution is equally true of the interpretation of statutes. "This tribunal," he says, "not only thinks out the thoughts which the Fathers were trying to think one hundred and twenty years ago, but it undertakes to determine what they would have thought if they could have foreseen the changed conditions and the novel problems of the present day."[82]

An important consideration in determining whether novel state action was precluded by previous congressional action is the practical consequences of the concurrent existence of the two systems of liability. Since individual employees of interstate carriers are engaged sometimes in interstate commerce and sometimes in domestic commerce, it would be difficult for the carrier or the state to fix the proper assessments that any such carrier should pay to a state insurance fund. And there are disadvantages in having the carriers subject to different methods of payment for injuries and to different tribunals for determining the amount of such payments. The situation is undesirable whether the state compensation statute is held applicable or inapplicable.

[81] (1842) 16 Pet. 539.

[82] *Jurisprudence*, page 30 (Columbia University Press, 1908).

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There is pressing need for new legislation by Congress. The Employers' Liability Law was enacted to introduce a more modern conception of liability than that which prevailed in the law of the states. Since the law was passed, many of the states have not only caught up with Congress, but have advanced to a point beyond. Congress should speedily devise some plan whereby the compensation feature of state legislation applies to interstate commerce injuries at least in those states which have compensation statutes. Injured employees should be relieved from doubt as to the forum in which to begin action or as to the rule of liability or of compensation to allege and rely on. The dissenting opinion of Mr. Justice Brandeis points out that during the 1915 term of the Supreme Court, thirty-seven of the ninety-three cases relating to the Employers' Liability Act involved the question whether the employee was engaged in interstate or intrastate commerce. The suitor who mistakes the nature of the commerce in which he was employed at the time he was hurt has to begin his action all over again.[83] Congress should make his remedy definite and certain even if it cannot at the same time make the rule of liability as satisfactory as that which the most enlightened state may now or in the future prescribe.

In Southern Pacific Co. v. Jensen,[84] the New York workmen's compensation law was also declared inapplicable to injuries within the admiralty and maritime jurisdiction of the federal courts. The injury sued for was also held not to be within the purview of the federal Employers' Liability Law. Shortly after the decision Congress amended the federal Judicial Code so that in prescribing the exclusive admiralty jurisdiction of the federal courts, suitors are saved their remedies

[83] If before trial plaintiff decided that he was engaged in interstate commerce when he was hurt, he may amend his declaration without bringing suit anew. Kansas City W. R. Co. v. McAdow (1916) 240 U. S. 51. See 82 *Central Law Journal* 189.

[84] (1917) 244 U. S. 205. Mr. Justice Holmes and Mr. Justice Pitney filed dissenting opinions which were concurred in by Justices Brandeis and Clarke. See 6 *California Law Review* 69, 3 *Cornell Law Quarterly* 38, and 17 *Columbia Law Review* 703.

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under the compensation law of any state.[85] This will raise the question whether such a state statute can apply to injuries which are within both the maritime jurisdiction and the federal Employers' Liability Law. And if suitors may elect whether to proceed in admiralty or under the Employers' Liability Law or under the state workmen's compensation statute, the employer may be subject to a double liability. He may insure in a state fund and then be subjected to suit and judgment in admiralty, thus losing both his premiums and the sum awarded by the admiralty court. If the employee seeks compensation under the state act, the state may shield the employer by insisting that the claimant release him from further liability. But the admiralty court cannot well render back to the employer the premiums he may have paid to the state fund in anticipation that the employee would proceed against that fund. Such are some of the difficulties arising out of the federal system. They invite earnest consideration and wise statesmanship to the end that they may be greatly minimized if not entirely obviated.

The remaining cases holding state regulations invalid because of previous congressional action all involve requirements on interstate carriers. The federal Safety Appliance Act was held to preclude a state requirement that grab irons or hand holds be placed on the sides or ends of every railway car.[86] The Interstate Commerce Act was held to furnish the sole right of recovery for damages due to an overcharge for interstate transportation.[87] The Carmack Amendment was held to preclude the application to an interstate shipment of a state law investing the innocent holder of a bill of lading with certain rights not available to the shipper,[88] and to render invalid a state require-

[85] Sixth-fifth Congress, First Session, Act of October 6, 1917, Public, No. 82.

[86] Southern Railway Co. v. Railroad Commission (1915) 236 U. S. 439.

[87] Louisville, etc. R. Co. v. Ohio Valley Tie Co. (1916) 242 U. S. 288. See 30 *Harvard Law Review* 400. But where the basis of liability is the failure of the interstate carrier to comply with its own rules as to the distribution of cars, and no exercise of functions by the interstate commerce commission is in issue, action may be maintained in the state court. Pennsylvania Railroad Co. v. Puritan Coal Mining Co. (1915) 237 U. S. 121. See 28 *Harvard Law Review* 816.

[88] Atchison, T. & S. F. R. Co. v. Harold (1916) 241 U. S. 371. See 11 *Illinois Law Review* 373.

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ment subjecting a terminal carrier to a penalty of $50 for failure to pay promptly certain claims for damages to interstate shipments.[89] And congressional regulation of interstate commerce, not specifically referred to, was adduced as the reason for refusing to give effect to the order of a state railway commission requiring a carrier to switch cars from the lines of competitors to side tracks within its own terminals, there to be loaded with goods destined for another state.[90]

CONCLUSION

The foregoing review of decisions under the commerce clause shows to what a great extent the judicial umpiring of the federal system is the humdrum task of making the practical adjustments necessitated by the fact that transportation, business and industry in the United States are subject to two or more legislative masters. The decisions declare no far-reaching constitutional principles. In partitioning authority between the states and the nation, the Supreme Court finds in the language of the Constitution only a point of departure.

In threading its way among the details of alleged conflicts between state and national power, it is guided mainly by its practical wisdom and by the counsel it gets from the practical wisdom embodied in previous decisions on analogous questions. The questions which the court has to answer are eminently practical ones. Does it interfere too much with freedom of commercial intercourse between the states to allow a state to regulate the sale of securities within its borders,[91] to say in what packages lard shall be sold,[92] to forbid noxious preservatives in food,[93] to have trains slow down at crossings[94] or stop at rural hamlets?[95] Has the pay of laborers engaged in commerce

[89] Charleston & W. C. R. Co. v. Varnville Furniture Co. (1915) 237 U. S. 597. See F. E. Riddle, "The Carmack Amendment and Common Law Remedies," 82 *Central Law Journal* 207.

[90] Illinois Central Railroad Co. v. De Fuentes (1915) 236 U. S. 157.

[91] *Supra*, note 72.

[92] *Supra*, note 67.

[93] *Supra*, note 66.

[94] *Supra*, note 49.

[95] *Supra*, note 48.

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enough to do with the commerce in which they are engaged to make a law about pay a law about commerce?[96] When Congress said that interstate carriers should be liable for injuries caused by their negligence even though the man injured was partly to blame himself, did it mean that the states should not make the carrier liable where no one was to blame?[97] According to certain cherished notions such questions are answered by finding the meaning of language contained in the Constitution or in statutes. But Mr. Justice McKenna, in his dissenting opinion in Caminetti v. United States[98] has described the process of judicial interpretation after a fashion in closer accord with reality:

"Undoubtedly, in the investigation of the meaning of a statute we resort first to its words, and, when clear, they are decisive. The principle has attractive and seemingly disposing simplicity, but that it is not easy of application, or, at least, encounters other principles, many cases demonstrate. The words of a statute may be uncertain in their signification or in their application. If the words be ambiguous, the problem they present is to be resolved by their definition; the subject-matter and the lexicons become our guides. But here, even, we are not exempt from putting ourselves in the place of the legislators. If the words be clear in meaning, but the objects to which they are addressed be uncertain, the problem then is to determine the uncertainty. And for this a realization of conditions that provoked the statute must inform our judgment."[99]

Mr. Justice Holmes has reinforced the point in his dissenting opinion in Southern Pacific Co. v. Jensen.[100] "I recognize," he says, "that judges do and must legislate." And then by way of qualification he adds: "But they can do so only interstitially; they are confined from molar to molecular motions."[101]

[96] *Supra*, note 13.
[97] *Supra*, p. 41.
[98] *Supra*, note 22.
[99] 242 U. S. 496.
[100] *Supra*, note 84.
[101] 244 U. S. 221.

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An efficiency expert might be inclined to think our way of running the federal system rather cumbrous. We cannot find out what a state can do until the Supreme Court tells us several years after the state has done it. Private individuals have to bear the expense of getting answers to questions that are questions of general public interest. Those who do not think it worth while to spend their time and money in resorting to the Supreme Court may obey the law of the state although the law is one which the court thinks encroaches on the power of the national government. Many state laws which are called invalid in the Supreme Court reports are nevertheless the rules of conduct actually followed by the individuals who do not raise and prosecute their objections. On the other hand the substantial unanimity with which most questions are answered by the court suggests that litigants and counsel who appeal to the highest judicial tribunal may at times be animated by other motives than serious doubts on questions of constitutionality. Few of the questions which they raise are sufficiently difficult so that the judges of the Supreme Court disagree about the answer.

The efficiency expert who ventures to criticize should be willing also to give advice about ways of amelioration. He would doubtless find that any suggestion that the national legislature be vested with full power over all commerce, intrastate as well as interstate, would meet with insuperable objections in the emotions of those who would exalt the independence of their favorite state, and in the judgment of those who believe that the states know best about local needs and should remain the chief ministers to those needs. Those who have watched Congress strain at the task of running a war may not think it best to add permanently to the field of its labors.

Very likely it would be difficult to get sufficient support for any amendment to our federal Constitution which was desired primarily for reasons of efficiency of administration. Yet it would seem that the creation of some national agency which would have power to veto or approve of state laws at the time of their enactment would be a step in advance of our existing

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arrangement. It would undoubtedly be imprudent to subject state laws to the approval of Congress. Some body like the Supreme Court seems better adapted to the task of deciding how far the states can go. The court gives little if any grounds for criticism directed against its decisions of these questions. But the same individuals sitting as a council of censors could do the same work to greater public advantage if they could pass upon state laws at the time of their enactment. Individuals would then know with what if any law they must comply. Suitors would then know whether to proceed under federal rules or under those of the state. They would not have to pay the cost of finding out the answer to the questions which concern many others besides themselves.

Such a council of censors could at once suggest to Congress the federal regulation which was advisable when any state law had been disapproved. Some plan might be devised which would give us the advantages of a unitary system of government without compelling us to forego the genuine benefits which accrue from a federal system. The various possible plans are eminently worth thinking about. The review of the commerce decisions of the last three years makes it clear that few cases involve important questions of doctrine or of general policy. The great majority require merely the application of well-established principles to new particulars. It is submitted that the mechanism by which such problems are put before the judges who sit at Washington is susceptible of improvement. The practical situation to be dealt with is infinitely bigger and more complicated than in 1787. If in some way we could lighten the burdens of the Supreme Court, and at the same time secure as wise decisions at a more opportune season, we might demonstrate that constructive genius for devising governmental system exists in the twentieth century as well as in the eighteenth.

(*To be concluded*)

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THE INSTITUTE FOR GOVERNMENT RESEARCH

W. F. WILLOUGHBY

Director of the Institute

The Institute for Government Research is an institution incorporated under the laws of the District of Columbia and wholly supported by voluntary private donations. It received its charter on March 13, 1916, and began active operations on October 1 of the same year. Its purpose as set forth in its charter is:

"To conduct scientific investigations into the theory and practice of governmental administration, including inquiries into the form of organization and the manner of operation of federal, state and local governmental bodies and offices in the United States of America; the powers, duties, limitations and qualifications of officers; the methods of administration employed; the character and cost of results obtained and the conditions affecting the efficiency and welfare of governmental officers and employees; to carry on such inquiries, directly or with the coöperation of governments, learned societies, institutions of learning or other agencies and individuals and to make public the results of its investigations; to maintain a library for the use of the society or its members and officers and those affiliated with its work; and to prosecute such other inquiries and perform such other services as may tend to the development and application of the principles of efficiency in governmental administration."

There are certain features of this statement of the purposes of the Institute to which it is desired to direct attention. The first of these is that the Institute is declared to be an institution for scientific research. Its establishment represents the conviction on the part of its founders that the work of administration is, if not a science, a subject to the study of which the scientific method should be rigidly applied. It recognizes that, though the problems of administration are of great complexity and vary

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with the conditions under which each operation of government is carried on, there are certain fundamental principles and practices which must obtain in all governmental undertakings, if efficiency and economy in operation are to be secured.

Thus, for example, if we apply to the problem of administration the scientific method of analysis, it will be found that it is resolvable into five fairly distinguishable parts: problems of organization, problems of personnel, problems of materiel, problems of business practice and procedure, and problems of finance. Each of these, in turn, is resolvable into more special phases. For example, problems of personnel have to do with the recruitment of personnel, how employees shall be classified, the basis on which their compensation shall be fixed, the manner of determining their efficiency through the establishment of efficiency records or otherwise, and the system of promotions based thereon, what shall be the working conditions of employees in respect to such matters as permanency of tenure, hours of labor, leave privileges, etc., and finally, the provision that shall be made in the way of retirement allowances or pensions for those incapacitated while in the performance of their duties or as the result of age. In like manner, problems of finance include such questions as the system of handling and disbursing funds, of accounting and reporting, of audit and, most important of all, of determining and making provision for the revenue and expenditure needs of the several services and of the government as a whole, or, to use the expression now commonly used, of the budgetary system that shall be employed.

One of the major activities of the Institute will thus be that of subjecting this whole subject of public administration to scientific analysis, and of seeking to determine and make known the principles and practices that should be followed in respect to each of these general and specific activities in order to secure efficiency and economy in operation. In the performance of this activity the Institute has already made substantial progress. It has inaugurated a series of volumes, which is now in course of publication, under the general title of "Principles of Administration." The first volume of this series, entitled *Principles Governing the*

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Retirement of Public Employees, is now in press. Other volumes in preparation, several of which will be published during the present year, bear the titles: *Principles of Public Employment*, *Principles of Purchasing and Stores Control*, and *Principles of Public Accounting and Reporting*. It is contemplated, through these and other projected volumes, to cover in time the whole field of administration as outlined above.[1]

Emphasis has been laid at the outset upon this function of the Institute, since it is important to show that, while the Institute has, in many respects, the same field of operations as bureaus of municipal research, economy and efficiency commissions, and like bodies, and like them aims to contribute directly to securing specific reforms in methods of governmental organization and administration, its operations will extend beyond those which such bodies usually undertake, or which, indeed, it is feasible for them to attempt.

Correlative with this attempt to determine and make known the most approved principles of administration, the Institute plans to subject to detailed and critical study those systems of administration, whether in this or foreign countries, the practices and experiences of which it believes will be of most value to our own governments in seeking to put their systems of administration upon a more efficient basis. It is evident, for example, that it would be of value to the United States government, in working out its problems of income tax administration, or of customs or postal administration, to have a knowledge of how these problems have been handled in other countries. In like manner it is desirable, if one service of the government has devised an especially efficient system for the performance of a particular category of

[1] It is only proper to state that the performance of this branch of the Institute's work has been much facilitated by the generous grant of something over $100,000 made by the Rockefeller Foundation, prior to the establishment of the Institute, for the prosecution of studies of this character. The expenditure of this fund was entrusted to a committee of which the writer was a member. The committee requested Dr. F. A. Cleveland to assume general editorial direction of the studies. On the establishment of the Institute the results of these studies were in great part turned over to it.

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work, such for example as the purchase, custody and issue of supplies, that this system should be described in published form so that a knowledge of it may be available to other services.

A second feature of the Institute's program will, therefore, be to make investigations with this end in view. The results of these investigations will be published in a series of volumes under the general title "Studies in Administration." At the present time the most important problem of administration confronting both our national and state governments is that of devising and installing a proper budgetary system. The Institute has accordingly selected this subject as the first problem of administration for intensive study, and the first three volumes in its "Studies in Administration" relate to this subject. In the first is given a description of the system of financial administration of Great Britain, the country which has the oldest and foremost budgetary system in the world. In the second is given a translation of René Stourm's notable work on the budget, which gives an excellent and detailed account of the French budgetary system. In the third is given a study of the Canadian budgetary system, prepared along the lines of the volume on the British system. This volume has the special value of showing how the British system works, and in important respects fails to work satisfactorily, under conditions different from those that prevail in the mother country and somewhat analogous to those prevailing in the United States.

The Institute has in preparation three other volumes, which it is expected will appear shortly, entitled *The System of Financial Administration of the United States*, *The Movement for Budgetary Reform in the States*, and *The Problem of a National Budget*. The latter volume, in addition to giving an analysis of the problem as it presents itself to the national government, points out the steps that will have to be taken by that government in putting itself upon a proper budgetary basis. These volumes, it is believed, will furnish information which cannot fail to be of value in the movement now in full swing for the adoption of a budgetary system by all of our governing bodies.

Here again it will be noted that the work of the Institute goes

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beyond that of bureaus of municipal research and economy and efficiency commissions. These organizations necessarily confine their attention almost wholly to the operations of a particular government; and, in doing so, address themselves primarily to those features of administration which in their opinion are most in need of reform. The Institute, in this branch of its work, studies problems of administration of any government whose system or experience is likely to throw light upon problems confronting our own government, and selects for study those systems which it believes to be most efficient rather than the reverse.

A third feature of the work of the Institute that can be of great value to the cause of administrative reform in the United States is that of acting as a general clearing house, or organ, through which the large number of agencies now engaged in promoting administrative reform in the United States may keep in touch with, and make use of, one another's work. To this end the Institute now has in preparation a volume which will appear in its series of "Studies in Administration," entitled *Organized Efforts for the Improvement of Methods of Administration in the United States*. In this volume the attempt will be made to give an account of the history, organization and work of such agencies as official economy and efficiency commissions, bureaus of municipal research, legislative reference and bill-drafting services, municipal reference libraries, and the like.

In this connection, it may also be stated, that the Institute is seeking to build up at its headquarters in Washington as complete a technical library of material bearing upon problems of administration in the United States as it is feasible for it to secure. Especially is it making the effort to secure complete sets of the publications of the agencies just mentioned, of the reports of special legislative and other investigations and other literature of a like character which it is difficult to find in ordinary libraries. This library is in charge of a trained librarian and no pains are being spared to classify and index the material received in such a way that it may be readily utilized. It is hardly necessary to say that the facilities of this library are open to all students of political science.

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While the Institute will thus, as an institution for scientific research, occupy the whole field of public administration, it will have a special field which it plans to cultivate intensively. One, if not the main, motive of the founders of the Institute was to bring into existence an organization that would do for the national government what bureaus of municipal research and similar bodies were so effectively doing for many of the municipalities and states of the country. It was rightly felt that, just as the operations of this government were of a magnitude and importance vastly greater than those of any state or city, its activities of a far more varied character, and its problems of administration of an infinitely more complex nature, so the need was greater that they should be subjected to study with a view to making known the conditions to be confronted and the means to be employed in meeting them. As President Taft expressed it in his message to Congress of January 17, 1912, in referring to the inquiry being made under his direction into the efficiency and economy of the methods of prosecuting public business:

The activities of the national government "are almost as varied as those of the entire business world. The operations of the government affect the interest of every person living within the jurisdiction of the United States. Its organization embraces stations and centers of work located in every city and in many local subdivisions of the country. Its gross expenditures amount to nearly $1,000,000,000 annually. Including the personnel of the military and naval establishments, more than 400,000 persons are required to do the work imposed by law upon the executive branch of the government. This vast organization has never been studied in detail as one piece of administrative mechanism. Never have the foundations been laid for a thorough consideration of the relations of all of its parts. No comprehensive effort has been made to list its multifarious activities or to group them in such a way as to present a clear picture of what the government is doing. Never has a complete description been given of the agencies through which these activities are performed. At no time has the attempt been made to study all of these activities and agencies with a view to the assignment of each activity

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to the agency best fitted for its performance, to the avoidance of duplication of plant and work, to the integration of all administrative agencies of the government, so far as may be practicable, into a unified organization for the most effective and economical dispatch of public business."

If this was the condition prior to our entrance into the present great world conflict, it needs no great powers of imagination to conceive conditions as they exist at the present time, and, in no small measure, will continue to exist after the war is closed. Not only has it been necessary enormously to expand the operations of existing services and to throw upon them work for which they were never intended, but scores of new agencies have had to be hastily constructed with but inadequate consideration of the forms of organization that should be given to them or the relations that they should bear to one another. Unless administrative confusion is to reign supreme after the war, it is imperative that the whole administrative machinery of the government shall, as it were, be put upon the operation table for the purpose of determining what changes should be made in it, with a view to so distributing the work to be done among the several agencies employed, and of so correlating these several parts as to make of them one unified system of administrative mechanism.

This is a work which cannot be done by the services themselves acting independently. It must be performed by some agency which will approach the study from the objective standpoint, and have in mind the welfare of the government as a whole. The work moreover must be prosecuted systematically to the end that each service will be subjected to the same character of examination and that, as far as possible, the proposals for reform will have consistency, will look to the erection of the services into a logically integrated piece of administrative machinery, and result in the unification and standardization of business practices and procedure. For the performance of such a work the Institute, granted that it has adequate funds for the purpose, is admirably equipped; and has already vigorously entered upon its execution.

The first step in an undertaking of this character is to obtain a complete and thorough knowledge of existing conditions. To

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this end the Institute has undertaken, as one of its major activities, the preparation of a series of monographs in which will be given a detailed description of each of the fifty or more distinct services of the government. These monographs will all be prepared according to a uniform plan. They will give: first, the history of the establishment and development of the service; second, not merely its general functions, but its specific activities; third, its organization for the handling of these activities; fourth, the character of its plant; fifth, a compilation of, or reference to, the laws and regulations governing its operations; sixth, statistical statements showing its appropriations, expenditures and other data for a period of years; and, finally, a full bibliography of the sources of information, official and private, descriptive of the service and its operations. These monographs, as completed, will be published in a series of volumes under the general title "Service Monographs of the United States Government."

In the preparation of these monographs the Institute has steadily in mind, and aims to produce, documents that will be not only of interest to the general public, but of direct value and assistance in the administration of public affairs. To executive officials they will offer valuable tools of administration. Through them such officers can, with a minimum of effort, inform themselves regarding the details, not only of their own services, but of those with whose facilities, activities, and methods it is desirable that they should be familiar. Under present conditions services frequently engage in activities in ignorance of the fact that the work projected has already been done, or is in process of execution, by others. Many cases exist where one service can make effective use of the organization, plant or results of other services if it has knowledge that such facilities are in existence. With the constant shifting of directing personnel that takes place in the administrative branch of the national government, the existence of means by which incoming officials may thus readily secure information regarding their own and other services is a matter of prime importance.

To members of Congress these monographs should prove of no less value. At present congressmen are called upon to legislate

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and appropriate money for services concerning whose needs and real problems they can secure but imperfect information. That the possession by each member of a set of monographs, such as is here projected, prepared according to a uniform plan, will be a great aid to intelligent legislation and appropriation of funds, can hardly be questioned.

To the public, finally, these monographs will give that knowledge of the organization and operations of their government which they must have if they are properly to exercise their function of bringing to bear an enlightened public opinion upon the conduct of governmental affairs.

One further fact regarding these studies should be noted. While they will make no direct recommendations in the direction of reform, they will furnish the data which must be available if really important reforms are to be accomplished, and they cannot fail greatly to stimulate efforts in this direction. Prepared as they will be according to a uniform plan, and setting forth, as they will, the activities, plant, organization, personnel and laws governing the several services of the government, they will automatically reveal the manner in which the activities of the government are distributed among the several services, the extent to which work in the same field is being performed by different services, and thus furnish the information that is essential to a consideration of the great question of the better distribution and coördination of activities among the several departments, establishments and bureaus, and the extent to which duplications of plant, organization and work may be eliminated. They will, in a word, permit of that comprehensive and intensive study of the administrative branch of the government as a whole which has never before been possible. To recapitulate, they will serve the double purpose of furnishing an essential tool for efficient legislation, administration and popular control, and of laying the basis for critical and constructive work on the part of those upon whom responsibility for action in this way primarily rests.

Though emphasis has thus been placed upon the work of the Institute in the way of making known conditions as a basis for

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critical and constructive studies, the latter field will by no means be neglected by the Institute. Progressively, as it secures the data, it contemplates taking up, one after another, the great problems of administration as they confront the national government, and seeking, by their study, to indicate ways in which they can be more efficiently and economically handled.

Its service monographs, for example, will make known that the national government now possesses three distinct services, located in different departments, having for their purpose the making of hydrographic surveys and the preparation of sailing charts and directions: the coast and geodetic survey, the hydrographic office in the navy department, and the lakes survey service in the war department. Manifestly there is here raised the question whether it is not desirable that the work of these three services should be done by a single service.

This is but an illustration of the many questions regarding the possible more effective grouping of services and distribution of duties that will arise. No one of them can be properly answered without a detailed knowledge of the organization and duties of existing services. There is here presented a wide field of inquiry into which the Institute will, as information is accumulated, enter.

In the foregoing we have sought to make known what may be termed the fundamental or basic work program of the Institute. The prosecution of this work, however, represents but one phase of its activities. A second phase, and one which at the present time is very prominent, lies in the direct coöperation of the Institute with services of the national government in their efforts to work out the special problems of administration now confronting them. This phase of the Institute's work is excellently stated in the printed notice, given to the public at the time of its establishment, when the Institute was described to be "an association of citizens for coöperating with public officials in the scientific study of business methods with a view to promoting efficiency in government and advancing the science of administration."

It is evident that, if the Institute is to serve its full measure of

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usefulness, it should not only work in close and cordial relations with government officials, but be accepted by the latter as an organization that can be of direct assistance to them. No efforts have been spared by the Institute to establish its relations with the services of the government upon this basis. That its efforts in this direction have been successful is made evident both by the willingness on the part of such services to furnish to the Institute the information needed by it for the prosecution of its studies, and by the numerous requests that have been made by them upon the Institute for assistance.

In point of fact considerably more than half of the work done by the Institute since its establishment has been in meeting calls of this character. On the entrance of our country into the war, the Institute, in common with many other organizations, offered its services to the government. This offer was accepted, and the Institute has done a large amount of work for such organizations as the Council of National Defense, the American National Red Cross, and various bureaus and services of the war department. Requests for its assistance, however, have not come exclusively from the military services. It has had no small number of requests for assistance from purely civil branches of the government. These calls indeed have been greater than the financial resources of the Institute have permitted it to meet. To such an extent is this true that it may be stated that the opportunity for the Institute to render assistance in this way, and thus to contribute directly to making the administration of national affairs more efficient, is only limited by the financial resources that it can command.

The success of the Institute in establishing cordial working relations with the national government must be attributed primarily to the fundamental policy adopted by it in respect to all of its work. This policy consists in taking the position that responsibility for effecting reforms rests primarily upon government officials themselves, that all an outside organization, such as the Institute, can do is to render such assistance as it can to such officials, and that to the latter should accrue the credit for improvements made.

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This question of the policy to be pursued by the Institute in performing its work was rightly considered by the trustees as one of supreme importance and a matter that should be definitely determined before any operations were begun. The writer of the present paper, prior to his appointment as director of the Institute, was accordingly requested to submit his views regarding this matter. This he did in a memorandum, which received the full endorsement of the trustees, from which the following may be quoted:

"An organization such as the Institute can proceed in two ways in seeking the improvement of governmental conditions. It can operate as a scientific body having for its purpose to assist government officials in effecting reform, or it can make of itself an agent for bringing public pressure to bear upon officials for the purpose of compelling them to take action believed to be desirable. In the opinion of the writer it is of the utmost importance that the first of these two methods should be adopted. This means that the policy of the Institute should be that of working in the closest and most cordial relations with government officials that it is possible to secure. No effort should be spared to make officials of the government understand that what is sought is to aid them to improve conditions; that the actual effecting of reforms should be their work; and that to them should accrue official and public credit for reforms accomplished. The Institute itself should as far as possible keep in the background. . . . As elsewhere stated, the Institute and the board of trustees should be satisfied if as the result of their efforts, results are being accomplished. The extent to which they get any public credit for such results should be a matter of indifference to them."

Action upon the foregoing policy does not of course preclude the making and publication of scientific studies in the field of administration, such as we have described above, nor the preparation and publication of reports dealing with those general problems of administration, such as the formulation of a proper budgetary system, the better correlation of existing services departmentally, and the standardization of business practices and procedure. It does not deny, moreover, the value of the work

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done by organizations having for their avowed purpose the public indictment of present conditions and the conduct of a public propaganda for the introduction of specific measures of reform. It merely means that it is unwise for the same organization to attempt to ride these two horses at the same time.

The question is wholly one of method. The Institute, no less than other organizations, will reach definite opinions regarding what changes should be made in methods of organization and administration in order to make them more efficient and economical, and will seek no less strenuously to have these changes effected; but it will do so, as far as possible, by seeking to convince those charged with the conduct of public affairs of their desirability, and having them take the necessary steps for their accomplishment. That greater results in the long run can be secured in this way than by seeking to have reforms forced upon officials over their opposition, is the firm conviction of the officers of the Institute. Even where seeming success follows the latter method the results are often more apparent than real. Few administrative practices, no matter what their theoretical merits, will give good results unless those responsible for their operation are persuaded of their desirability and apply them in good faith. Many reforms, such as the introduction of cost keeping systems, have met with shipwreck for this reason.

For over thirty years the writer has been intimately concerned in one capacity or another with the administrative work of the national government. It is his experience that the directing personnel at Washington—the heads of departments, bureaus and divisions—are of a high order of ability and genuinely desirous of having their services efficiently organized and conducted. If they have fallen short of achieving their aims in many respects this is due to the fact that each officer is concerned with the administration of but one service, that he has not been in a position where he can consider problems of administration from the standpoint of the government as a whole, and that the demands upon him for the performance of the current work of his service are such as to leave him little or no time for the study of methods of administration practiced elsewhere, or to work out

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new principles and practices for himself. The experience of the Institute but confirms past experience that these officials are freely receptive to suggested improvements and welcome assistance when given to them in the proper way and spirit. With such a condition of affairs, it would be the height of folly not to assume a like sympathetic attitude and make the fullest possible use of this good will.

In concluding this account of the Institute for Government Research, it is not out of place to point out how closely its aims correspond to those of the American Political Science Association, and how nearly it meets a desire formally expressed by it. In 1908 this association addressed to the Carnegie Institution a letter and memorial pointing out the need for the establishment at Washington of a department of research in political science and suggesting that that institution take steps in that direction. In the establishment of the Institute for Government Research the association sees its wishes in great part accomplished. Though the Institute has apparently as its field but one branch of political science, that of administration, that field, properly construed, is of broad scope. Efficient administration depends in no small degree upon the existence of a proper political organization and the application of proper political practices. It cannot be achieved without due regard to these larger questions of political science. On the other hand, the aim of all political science is a good administration of public affairs. "The government best administered," writes Alexander Pope, "is best." In a way, therefore, the study of administration means but the study of political science or government from a certain standpoint, that of adaptation of forms and means to an end, efficiency in operation.

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ASSYRIAN GOVERNMENT OF DEPENDENCIES

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The labor member of the Belgian ministry, M. van der Velde, has drawn a parallel between the Assyrian methods of deportation and those practiced by the Germans. An orientalist has developed this theme with chapter and verse citation. Whatever our sympathies in this present world catastrophe and however close we find the analogy, the episode has undoubtedly excited a certain amount of curiosity as to the methods used by the Assyrians in the government of their dependencies. To the more scientific student there must be great interest in a system which furnished the model to the Persians, to the Hellenistic rulers, to the Romans, and so to the modern systems of provincial government.

As in so many other phases of their civilization, the Assyrians built upon Babylonian foundations, and, as in so many other cases, the Assyrians profoundly modified what they took over. In truth, the Babylonian foundation was comparatively slight. At the beginning of Babylonian history we have the completely independent city state. As one conquered the other, there was no attempt at incorporation, and the patesi, who as vice regent of god on earth ruled the dependent state, was permitted complete autonomy, subject only to the payment of a small tribute and to certain acts which acknowledged foreign suzerainty. After a time, some of these miniature empires developed a recognized unity, indicated by the use of a definite title, but these titles were still connected rather with the city which formed the capital than with the empire as such. With the coming of the Semite and the foundation of the Sargonid power, some twenty-five centuries before the time of Christ, these patesis tended to sink into the position of mere governors, and the process seems

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complete under the kings of Ur. When Assyria first came into contact with Babylonia, then under the West Semites who formed the so-called First Babylonian Dynasty (2225–1916 B.C.), we find the process still incomplete. For example, the city state of Kish, within sight of Babylon itself, long remained under the control of a ruler who was actually permitted the title of king, whereas certain of the states farther away were at once incorporated. Which of the two systems should be followed seems to have depended on whether the city conquered had been earlier the capital of a state with imperial pretensions. Even under Hammurapi, we have subject kings who might claim for themselves conquests otherwise assigned to their suzerain. The Sin idinnam, to whom the official correspondence of Hammurapi is addressed, was not a governor, rather he was the viceroy of the entire south of Babylonia, where were the most ancient and famous cities and where also was the greatest need and greatest opportunity for an army.

The breakdown of the Hammurapi empire under his son Samsu iluna put an end to this development. When Babylonia once more was powerful, her new rulers, the Kashshites had brought from their isolated mountain valleys a feudal system which was the very negation of imperial organization. Worthy as would be the study of this feudal regime in the light of similar developments in Mediaeval Europe and in Japan, it is of merely negative importance in an investigation of the provincial organization. Had the system of Hammurapi developed to its natural limit, Shamshi Adad, patesi of the city state of Ashur, would have been supplanted by a governor of the city Ashur. The feudal anarchy for which the Kashshites were responsible gave opportunity for the patesi of Ashur to become the king of Assyria.[1]

The Assyrian kingdom thus began its growth when there was little to be learned from its former mistress. Scanty as are our sources for this earlier period, one thing at least stands out clearly: Assyria still lacked a definite imperial organization. Her first advances to the northeast, in the region of the later

[1] The above sketch of the political development of Babylonia is based on detailed studies to appear in the *American Journal of Semitic Languages*.

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Assyrian triangle, resulted in complete incorporation into the kingdom and these conquests were later considered home land. Farther advance, however, brought a series of problems. On the south was Babylonia, whose higher culture, the basis of so much of Assyria's own, demanded a peculiar consideration. To the north and east ran lines of mountains, cut up into narrow valleys, each filled with a hardy hill folk; while to the west Aramaeans swarmed across the uncultivated steppe from their homes in the Arabian desert. It was clear that a new system was imperatively demanded.

What was the system first developed is made very evident in the Annals of Tiglath Pileser I (1100 B.C.),[2] where that monarch calls himself "King of the four world regions, king of all princes, lord of lords, mighty one, king of kings, who hath ruled the peoples . . . . who hath been proclaimed over princes." It is clear that we are still dealing with an empire of the crudest type, with no internal bond of union other than a common master of the various subject kings. We do indeed find a statement that "unto Assyria I added land, unto her people peoples," we even find that the land of Qummuh "to the boundary of my land I added," but that here we have no real incorporation is shown by the well-known later history of that region.[3]

The religious character of the empire is well brought out in the very beginning of the document where we are informed that "Ashur and the great gods . . . . commanded that I should extend the boundary of their land." The tax and tribute was that of "Ashur my lord." When the "heavy yoke of the king's lordship" was placed on newly conquered peoples, it was in reality to the "lord Ashur" that they were made subject. Enemies were "not submissive to Ashur my lord," and the conquered were "numbered with those subject before Ashur my lord." Complete subjugation of a land is indicated by the captivity of the conquered gods in the city of Ashur. When kings

[2] An excellent translation in Budge-King, *Annals of the Kings of Assyria*, 27ff.

[3] *Annals*, I. 29ff. cf. Ashur nasir apal, *Ann.* I. 18ff with same formulae; I. 59ff; III. 30f.

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were set free, "the oath of the great gods for servanthood for ever" they were forced to swear, and a captive king on whom Tiglath Pileser had mercy was sent home as a "worshipper of the great gods." Thus we see clearly the theocratic character of the empire, with special emphasis on Ashur, the deified city state. There is one case where we seem to have deportation: "I carried off, as men of my land I numbered them;" but ordinarily those who came out on his advance and "embraced the feet" of the king were forced merely to give hostages, furnish an indemnity, and promise a regular yearly tax, to be paid in the city of Ashur in the presence of the king. It is in this yearly tribute, sharply to be distinguished from the extraordinary contribution with which the king must be greeted when he appeared in subject territory on his annual expeditions, that we see the first hint of an efficient imperial control. Through personal knowledge of the high state of military preparedness and through the impression the glitter of wealth must make, the client princes could be made to feel that revolt would be suicidal.[4]

The reign of Tiglath Pileser was followed by a long period of decline. When once more we have full sources, in the reign of Ashur nasir apal (885–860, B.C.), conditions seem at first sight much the same, and yet there is a difference.[5] To be sure, the official narratives are in large part recitals of war and rapine, of such statements as "I cut off their hands, I burned them with fire, a pile of the living men and of heads over against the city gate I set up, men I impaled on stakes, the city I destroyed and devastated, I turned it into mounds and ruin heaps, the young men and the maidens in the fire I burned." Yet behind this calculated recital of frightfulness, intended to prevent other peoples from following the example of revolt or of resistance, careful inspection finds a new plan of organization. Ashur nasir apal still claimed to be "king of all princes, king of kings," but just before he had told us "In the lands which I have subdued, my governors have I appointed, service, labor, and serfdom have I inflicted upon them," and he boasted of his inflic-

[4] *Ann.* I. 47f.; 65f.; III. 85f.; IV. 8f.; 32f.; V. 14ff.; I. 87f.

[5] Inscriptions of Ashur nasir apal in Budge-King, *Annals*, 155ff.

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tion of tax and tribute upon them. If the greater emphasis is still laid upon the booty taken in war, upon the indemnity or the forced contribution, none the less we have mention of the yearly tribute as well. For example, by the side of the four manas of silver and the four hundred sheep given as the contribution of the not unimportant Til Abna when the king appeared in person in their territories, we have the yearly tax of ten manas. Once a sort of durbar took place at Carchemish on the Euphrates when the "kings of the lands, all of them, came before me, my feet they embraced, their hostages I took."[6]

But Ashur nasir apal was already reaching out for something more than tribute paying kings. There is a hint that something along this line had been earlier begun in the statement that a certain Shalmaneser had settled Assyrians under a *hazanu*, a sort of mayor, near the sources of the West Tigris, and so far beyond the limits of Assyria proper. Near by was another royal city, perhaps dating from the same time. Why they should take this occasion to revolt against Ashur nasir apal is not clear; perhaps he was too anxious to assert the reality of control by the central power. Somewhat nearer to Assyria was Tushha, whose foundation may be taken as typical of the new Assyrian colonization.

"Tushha anew I took, its old wall I destroyed, the site I cleared. . . . . A new wall . . . . I built. . . . . A palace for the dwelling of my royalty in its gates I erected. . . . . An image of white limestone I made, my glory, my great power, and my deeds of valor . . . . on it I wrote, in Tushha I set it up. A memorial stone I inscribed, in its wall I placed. The ruined Assyrians, who for want and hunger . . . . to the land of Shupre had gone, I brought back, in Tushha I settled them. That city for my own I took, grain and chopped straw of the land of Nirbe in its midst I heaped up. The remnant of the men of Nirbe, who before my weapons had fled, came down and seized my feet. Their habitable houses and cities I settled, tax and tribute in horses, etc., more than before I increased, upon them I placed, their sons as hostages I took."

[6] *Ann.* II. 107ff.; III. 125ff.; III. 63ff.

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That Nirbe revolted before this very year was over does not ruin the value of this description for purposes of illustration. On one of the royal stelae which Ashur nasir apal set up in this city occurs this significant passage "Ashur nasir apal . . . . whose heart desires to make broad his protection." Characteristic of these settlements is the new Assyrian name, such as "Wall of Ashur." Particularly worthy of note is the foundation of two cities to command the narrows of the Middle Euphrates, to which were given the significant names of "Fort of Ashur nasir apal" and "Watch of Ashur." Another of these foundations is in Media where he "placed all the land under one control," though the very next year that country "discontinued tax and tribute due to Ashur my lord." In still another case, we have the refoundation of an old Babylonian outpost against the Median peoples.[7]

All these seem to have been colonies of a more or less military character, established in the midst of hostile peoples. It was not until the very end of the reign that we have an indication of something more. The term *shaknu* is regularly used in later times as the technical word for governor of a province. Literally, it means "one appointed, established." In early times, it means only deputy or vice gerent; for example, Adad nirari I calls his father Arik den ilu the *shaknu* of the god Bel, vice gerent of the god on earth.[8] There are two passages in the documents of Ashur nasir apal which clearly show another and a transitional usage. In one, we have the statement "In the times of the kings my fathers, no *shaknu* of the land of Suhi had come;" and the scribe then goes on to tell how the present *shaknu* did place himself in a tributary position. The other is in the case of Suru where the nobles had killed the *shaknu* and had called in the "son of a nobody" from another state. When the city had been taken and plundered, the "*shaknu* of my appointing" was again only a client prince.[9]

In the last expedition of the reign, in 867, there is a most sig-

[7] *Ann.* I. 102f.; II. 3ff.; III. 24ff.; II. 84ff.; III. 50; II. 84f.
[8] Adad nirari, I. 14; cf. Budge-King, *Annals*, 5.
[9] *Ann.* I. 100; 75ff.

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nificant passage: "All the land of Kirhi feared, my feet they embraced, their hostages I took, my own *shaknu* over them I placed." The emphasis on "my own" and the fact that no client prince is mentioned is conclusive, for provincial governors are but rarely mentioned in the official records, whereas the client princes are. That the later provincial system in very truth began with Ashur nasir apal is made still more clear by the fact that the Assyrian Chronicle, with its list of provincial governors, begins with the reign of his successor Shalmaneser III (860–825 B.C.).[10]

Of this successor, his own records afford but little that is new.[11] We hear of the same savage cruelties, the same booty-seeking raids, the erection of stelae, and the foundation of cities, now specifically called "royal." One change is noteworthy. The early kings of Agade and of Ur in Babylonia had taken for themselves the title of "God." After a revolt in North Syria, Shalmaneser says that he placed over them a new king and then adds that his royal image was set up in a temple in the capital. The official cult of Ashur and the king, a prototype of Rome and Augustus, is not far distant.[12]

Perhaps the most interesting passage in his official records is that in which he gives a regular tribute list. Previously, we have more or less exact accounts of the booty collected in the course of a raid and sometimes a general statement as to the infliction of a regular tribute. Here for the first time we are given formal statistics. If the numbers can be relied upon, there is the greatest disproportion between the indemnity, or the contribution paid when the king appeared in person, and the yearly tribute which must be handed over in the capital at Ashur. The indemnity often gives huge amounts of copper, iron, clothes, which are never included in the yearly tribute. In Patina, for example, the yearly tribute in precious metals was

[10] *Ann.* III. 103f. Latest edition of the Assyrian Chronicle, Olmstead, *Journal of American Oriental Society*, XXXIV. 344ff.

[11] Latest available translation, though not up to date, Schrader, *Keilinschriftliche Bibliothek*, I. 128ff.

[12] *Monolith*, II. 33ff.; *Obelisk*, 154ff.

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less than one per cent of the indemnity. The latter may indeed well have been exaggerated, but even at that the yearly tribute was not high. Qummuh, a somewhat barbarous region, paid but twenty manas of silver, plus some purple and cedar beams. Agusi, commanding the routes to the sea from both Assyria and Babylonia, could probably well afford to pay the mana of gold and the six talents of silver, together with flocks and herds. The precious metals must have been fairly common in this region, thanks to the fact that it was not far from several famous silver mines. As the indemnity was so much higher, it paid to furnish a yearly tribute.[13]

More interesting information for the period is found in the Assyrian Chronicle, a chronological table in three columns, of which the first gives the official from whom the year took its name; the second, his office or the province over which he ruled; the third, the most important event of the year. In the reign of Shalmaneser III, no regular cursus of the provincial officers was developed, still another proof of the newness of the system, but by that of his successor Shamshi Adad, there was a regular order of succession, showing the regular rank of the various provinces, for individual promotions were regularly to the higher provinces of the list.

Examination of this list gives interesting results. The oldest capital, Ashur, does not appear, and the same is true of Harran, which apparently held a similar position in Mesopotamia. Of the two provinces in Assyria proper, Kalhu and Nineveh, the former never leads and the latter is actually near the bottom of the list. Why they should be surpassed in rank by such provinces as Nasibina in North Mesopotamia or by Rasappa in the Syrian desert is inexplicable, unless we assume that they were marches out on the frontier and for this reason demanding an unusual responsibility and permitting a freedom of action which could be given in safety only to men long in the service of their sovereign.

After reading the long list of conquests claimed by Ashur nasir apal and Shalmaneser, it is a distinct shock to discover that

[13] *Monolith*, II. 21ff.

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only a small part was actually incorporated within the empire. Under Shalmaneser, we have three provinces in Assyria proper, another on the Babylonian boundary, one to the west, and four along the line of mountains to the north east. Of these last, two can be definitely proved to be later than his accession and the two others are certainly not earlier. At the utmost, we have but five or seven actual provinces at the accession of Shalmaneser in 860.

The Chronicle shows us, what we should never have otherwise suspected, that the reign of Adad nirari (812–783 B.C.) was the great period of provincial organization. In his days no less than eleven new provinces were added. Some of these were actually hostile during the early part of his reign; one, Arba ilu or Arbela, seems to have been due to the splitting up of an earlier province. At this time, too, we have the first province west of the Euphrates. The fact that so many of these new provinces occur in the list of cities which revolted at the end of the reign of Shalmaneser III, would indicate that advantage had been taken of their revolt to reduce them to a provincial form of government.

For the remainder of the dynasty, we have no data, but there is no reason to assume any change during its decline. When Tiglath Pileser IV once more furnishes us with official records (745–728 B.C.),[14] much the same policy is still followed. He was, of all rulers, the most explicit in his description of his provincial organization. This has given him in the pages of previous writers a credit he scarcely deserves and he has even been called the founder of the provincial system. It is quite possible that had we the lost annals of Adad nirari, we should find similar language there; it is more probable that in the records of Tiglath Pileser we have simply a fuller expression of existing facts, in other words, of a more fully developed political consciousness. We still have the raids for plunder with the consequent indemnity; and we have cases, Israel for instance, where frontier kings are again set up after a revolt. But it is clear

[14] Inscriptions best collected by Rost, *Tiglat-Pileser*; cf. Anspacher, *Tiglath-Pileser*.

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that the installation of buffer state kings was an unusual procedure, that the tendency was all in the direction of a closer and more organic union with the central power. Tiglath Pileser did not claim, as did earlier rulers, to be a "king of kings," rather he closed his boasts by saying that he "deposed their princes and established his governors." New cities with Assyrian names were founded, captives from various parts of the empire settled therein, and a governor was placed in charge. Once, in dealing with an Aramaean tribe, Tiglath Pileser declares that he "took over the sovereignty of their kings;" a *qepu* over an Arab tribe is nothing but a "resident;" we have newly conquered territory added to a province which had long existed; states were "added to the boundary of Assyria" by the infliction of "tribute like the Assyrians."

Long ago we noted the erection of the royal image in conquered cities and we have other hints as to worship of it as a deity. As early as the time of Shamshi Adad (825–812 B.C.), Ashur was side by side with this image. Tiglath Pileser makes the direct statement that in one of the new capitals a palace was erected, the "might of the god Ashur my lord in it I settled," an image of the king was placed therein, and it was "added to the gods of the land."[15] An obscure verse in the book of Kings[16] even seems to prove that, after his visit to the durbar Tiglath Pileser held at Damascus, Ahaz of Judah erected in the temple at Jerusalem statues of Ashur and of the king of Assyria to be worshipped side by side with the Hebrew God.

Shalmaneser V (728–722 B.C.) took still another step toward the consolidation of the empire. Ashur, the old sacred city, and Harran, the Mesopotamian capital, lost their immunity to taxation and were made as much subject to the various feudal and manorial obligations as were the peasants. Behind this action may lurk some attempt at a grant of more rights to the subject population, at the least it meant a lowering of the position of the old nobility. Nobles and priests united and Sargon took the

[15] *Ann.* 124ff.; 216; Clay Tablet; Slab, passim.
[16] II Kings, 16: 18; cf. Olmstead, *Amer. Hist. Rev.*, XX, 567.

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place of Shalmaneser. Ashur and Harran remained free.[17] How this freedom worked is shown by a letter written soon after by the governor of Ashur who complained that ever since the king freed the city the feudal service had been rendered useless to him, so that he was not even able to repair the palace.[18]

Formal development of the provincial system under the Sargonids we can hardly say there was, though for this period we have far more data than for all that precede. Thanks to the letters, we can reconstruct page after page of the provincial history in the minutest detail. We note the complete abandonment of the cursus of provincial governors as new provinces continue to be added. Business documents even furnish us with the name of a *shakintu* or lady—shall we say governess? It is in this period that we have a definite budget—so many talents from each of the provinces, so many talents for this or that branch of the royal service—and the sums now inflicted are enormous, no less than a hundred talents from Carchemish, thirty from Arpad. In general, it is a period when the principles previously laid down are worked out in ever greater detail. Of growth in system there is no indication. Many of the details of provincial government are worthy of closer study; but they at once lead into a study of the revenue system and the land system, and we are not as yet ready to discuss with hope of accuracy the financial organization of the empire.

With the Sargonid period, a new problem comes more and more to the fore: the exceedingly puzzling question as to what to do with Babylonia. In earlier days, Assyria had been the vassal of that country and the respect thus engendered was never lost. For long centuries, Babylonia alone was treated as an equal with which binding treaties could be made. Intervention there was, to be sure, but in the end Babylonia was always left under a king, who was at least in name independent. But Babylonia became ever weaker, and intervention to save the civilized classes from conquest by semi savage Aramaean tribes

[17] See the highly important but difficult document, Winckler, *Altorientalische Forschungen* I. 403ff.; cf. Olmstead, *Sargon* 31f.

[18] Johns, *Assyrian Deeds and Documents*, II. 174.

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became more and more necessary. The Assyrians might wish to pose as the defenders of culture; there was a real menace to Assyria in the possibility of one of these half savage conquerors developing as a military genius equal to the Assyrian king.

With the capture of the last petty "King of Babylon" in 730, Tiglath Pileser was face to face with the problem. There was no legal ruler in Babylonia and no one who would be favored by the higher classes. Certainly, no one could accept as of right divine half barbarous chiefs of the various Aramaean tribes, even if revolutions had not recurred so frequently that it was absurd to say that the succession was in any one family or tribe. If Tiglath Pileser was a foreigner in Babylonia and a usurper at home, at any rate he represented a high degree of culture, he had a reverence for the older Babylonian history which could not as yet be expected from the Aramaeans, and he stood for law and order. Assyrian peace might mean stringent military rule and high taxes; but anything was better than the anarchy which Babylonia had suffered for generations. The native Babylonians had long since forgotten the arts of war and thought only of trade. Had history been made by their sentiments, we could find no stronger instance in history of economic influence. Babylonian merchants, landlords, or priests might prefer Assyrian peace at a price rather than Aramaean anarchy, but they rarely had the choice. If Assyrian kings were strong and wise, Babylonia was Assyrian. Otherwise, Babylonia was controlled and plundered by the wandering tribesmen.

So then, if Babylonia were not to become an international menace, it must be policed from Assyria; and Assyria was nothing loath. There is no need to talk of Assyrian merchants, Assyrians never became a nation of shopkeepers. If lust of conquest or desire of booty was not enough, the need of policing was sufficient to lead an Assyrian king into Babylonia. We should expect, then, that the Assyrians, with their hard common sense in political matters, would have reduced Babylonia to the form of a province as they did in the other captured states. The first objection might be found in the unity of Babylonia, but a moment's thought will show that there was little more unity

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there than in Greece. As the Romans did not hesitate to incorporate in their provinces many a Greek city, so parts of the greater Babylonia, on the north and east, were made a part of the provincial system. At this late date, there was no king of Babylonia, though there was still a king of Babylon. The conqueror might adorn himself with a large number of titles, each of which represented the control of some city state of hoary antiquity whose local pride still clung to the last shreds of its former greatness. Nay more, Babylonia had already been long dismembered, for many a predecessor of Tiglath Pileser had borne the title of "king of the four world regions," which was localized at Kutu, barely a day's distance from Babylon. The taking of a Babylonian title, then, was no new practice.

It was something different with the title "King of Babylon." Thanks to the fact that Babylon had been the last capital of a united Babylonia, such a title carried with it a claim to rule over all the land. During the period of Babylon's hegemony, her city god Marduk had taken over most of the prerogatives of the older Enlil of Nippur, and the ancient literature had been systematically revised in his honor. Thus Babylon became the heir of all the glories of the older civilization in the eyes of her northern neighbors. The title, "King of Babylon," could be made of use in imposing upon subject peoples.

Only one objection stood in the way, but it was serious. According to the priests of Babylon, no one could rightfully be king unless he seized the hands of Marduk, not merely on the first New Year's day after his accession, but on each and every day, in token of his feudal homage. The practical Assyrian might realize how unwise was this insistence on ceremony when the king's presence was needed at the head of the army. The unwarlike but fanatical inhabitants of the city thought only that the king's absence would cheat them of the greatest show of the year. In spite of all these disadvantages, Tiglath Pileser determined to keep this prestige in his own hands and became "King of Babylon." In this he was followed by his son Shalmaneser and by the usurper Sargon.

The Babylonian question dominates the whole reign of Senna-

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cherib (705–680 B.C.). First Babylonia was ruled by a brother, then a native Chaldaean was placed on the throne, finally the crown prince was given the kingship. Revolt followed revolt and at length the crown prince was treacherously made captive and carried off to Elam. After superhuman effort, Babylon was captured. The patience of Sennacherib was exhausted. Conciliation and firm rule alike had been futile. Nearly the whole of the reign and much treasure which could ill be spared from an empire already bled to the limit of safety had been wasted in the vain attempt to conciliate the fanatical patriotism of its citizens. The city was utterly destroyed.

We need not deny the cruelty with which Babylon was wiped out, neither should we forget that she suffered the same punishment she had so often inflicted upon others. She had been treated with an indulgence without parallel in the history of the ancient orient. She had returned these favors with the worst ingratitude. Even Assyrians who worshipped Babylonian culture must at last conclude that all good Babylonians were long since dead. Those who are acquainted with the classical history will recognize a prototype of the relations between Greece and Rome. To the majority of the Greeks, the liberation proclaimed by Flamininus meant simply the opportunity to irritate Rome with a series of pinpricks. Rome, too, was patient, for she respected Greek culture. Like Assyria, she finally lost her patience and destroyed a great city, Corinth. Here the parallel ends. With all her inconsistencies in foreign policy, Rome knew too much to restore Corinth. Greece realized that she had a master under whose more or less kindly rule she might slowly decay with an honorable old age. Sennacherib had a sentimental son who undid his father's work and rebuilt Babylon. It was only human nature that the Babylonians forgot Esarhaddon but not Sennacherib.

To this colossal blunder, Esarhaddon added another when at his death he divided his empire, giving Assyria to Ashur bani apal and Babylonia to Shamash shum ukin. Neither was of more than mediocre ability, and Shamash shum ukin soon came under the control of the Babylonian patriots. Revolt was

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followed by another siege and capture of the city. Again fortune gave opportunity to Assyria, but Babylon was not destroyed. Had Assyria been more mercilessly consistent, the fall of the Assyrian empire and the rise of the Chaldaean under Nabopolassar and his still more famous son Nebuchadnezzar might have been indefinitely postponed.

The Assyrians had developed a splendid imperial organization, the best the world had yet seen. But they had not, save in Sennacherib alone, rulers who had the moral courage to force Babylon to come within the system. Babylon remained an open sore and from this infection of the body politic came destruction so complete that while Babylon is today a household word few indeed realize that at the beginning of the modern provincial system stands the Assyrian government of dependencies.

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LEGISLATIVE NOTES AND REVIEWS

EDITED BY JOHN A. LAPP

War Legislation. During the years 1916 and 1917, the congress of the United States and the legislatures of the several states have naturally been very active in the passage of laws designed to place the country in a condition of preparedness to meet the exigencies growing out of the declaration of war against the Imperial German government. The volume of legislation has been extraordinary and covers a wide range of subjects. This article gives a brief review of the military legislation enacted in forty states, including nine sessions of 1916 and thirty-six sessions of 1917.

Leaving out of consideration the absent voters acts, designed to apply primarily to soldiers and sailors absent from their states on service, and certain other laws of minor importance, two hundred and twelve separate and distinct laws have been enacted by the forty states reviewed to place the several states on an efficient and adequate war footing. These laws provide for the creation of state councils of defense; the amendment and codification of the general militia laws; the registration of aliens; the repair and construction of armories and barracks; the taking of a census of the military resources of the states; the definition of the crimes of sedition, treason, syndicalism and sabotage; prohibition of the desecration and misuse of the national flag and the national anthem; the introduction of military training in schools and colleges; the conservation, augmentation and distribution of food, fuel and other necessaries of life; requiring the display of flags on school houses and other public buildings; the acceptance by the state of aeroplanes given or donated for the public defense; calling retired officers of the national guard back into active service; the creation, maintenance and equipment of cadet companies; the establishment of home guards; authorizing political subdivisions of the state to extend financial aid to the indigent dependents of enlisted men; the creation of market departments; authorizing the temporary release of men from the national guard and naval militia to work on the farms;

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modifying the bank acts relative to demand deposits and financial reserves; permitting insurance companies to assume risks involving bombardment and marine losses; creating state police departments; prohibiting the sale of liquor in the vicinity of forts and cantonments; modifying the explosives storage laws; creation of municipal emergency police service; releasing children from school attendance without loss of credit when engaged in farm work; the institution of secret investigations involving the loyalty of persons under suspicion; authorizing the boards of education to close the educational institutions during the continuance of the war; permitting the use of rifle ranges on Sunday for practice shooting; requiring first aid to the injured to be taught in the schools; forbidding the placing or inserting of rock or metallic substances in saw logs; authorizing the governor, as a war measure, to take possession of private property; declaring a moratorium on debts and a stay of proceedings on executions; prohibiting discriminations against persons habited in military uniforms; authorizing the governor to declare successive legal holidays applicable to the whole state or to any part thereof; providing for the leasing of the fishing force to the federal government; prohibiting the hoarding of foodstuffs and the poisoning or contamination of wells or other sources of water supply; the creation of county guards; requiring all able-bodied male persons between certain designated ages, not otherwise employed, to be assigned to public work; exemption of food products from taxation; and the acquiring of plans and specifications of forts, camps and other important military works.

State Councils of Defense. California,[1] Illinois,[2] Maryland,[3] Nebraska,[4] New Mexico,[5] New York,[6] Texas,[7] and West Virginia passed laws creating state councils of defense, consisting of from 7 to 50 members, appointed by the governor, and representing the manufacturing interests, labor, agriculture, stock raising, the Red Cross and relief societies, the physicians, bankers, railroads, engineers, the women and the citizens generally. The board of public works in West Virginia acts as the state council of defense.[8] Appropriations ranging from $50,000 to $750,000 were appropriated to carry on the work. In Indiana a state council of defense was created by executive action after the adjournment of the legislature of 1917 and it is confidently

[1] Acts, 1917, p. 24.
[2] Acts, 1917, p. 153.
[3] Acts, Special Session, 1917, p. 59.
[4] Acts, 1917, pp. 489 and 606.
[5] Acts, Extra Session, 1917, p. 19.
[6] Acts, 1917, p. 1184.
[7] Acts, Called Session, 1917, p. 9.
[8] Acts, Second Extra Session, 1917, p. 34.

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expected that it will subsequently be placed on a statutory basis and its acts legalized.

Militia Laws. Owing to the important changes in the federal military laws of June 3, 1916, it became necessary for the states to make extensive amendments and additions to the laws regulating the organization of the militia. Accordingly new or vitally amended militia laws were enacted in Louisiana,[9] Maryland,[10] New Jersey,[11] Nebraska,[12] New York,[13] Arizona,[14] California,[15] Connecticut,[16] Florida,[17] Minnesota,[18] Maryland,[19] Missouri,[20] North Dakota,[21] North Carolina,[22] New Mexico,[23] Oklahoma,[24] Ohio,[25] Oregon,[26] Rhode Island,[27] South Carolina,[28] South Dakota,[29] Vermont,[30] Utah,[31] Virginia,[32] Georgia,[33] Washington,[34] Wyoming[35] and Indiana.[36]

Home Guards. The federalization of the national guard left the states without adequate military protection and steps have been taken to create home guards consisting of able bodied male persons not subject to conscription who are required to perform the duties usually discharged by the national guard and whose term of service is for the duration of the war. State defense guards of this kind, possessing a state-wide jurisdiction, have been created in California,[37] Illinois,[38] Maine[39] and Maryland.[40] By a law enacted by the legislature of New York, the board of supervisors of any county may appropriate money for a home defense committee until six months after the close of the war;[41] and any county, city, town or village may provide military equipment and take measures to secure its defense.[42] For the purpose

[9] Acts, 1916, p. 540.
[10] Acts, 1916, p. 626.
[11] Acts, 1917, p. 148.
[12] Acts, 1917, p. 489.
[13] Acts, 1916, pp. 1861, 1271 and 1842, and 1917, p. 1902.
[14] Acts, 1917, p. 109.
[15] Acts, 1917, p. 302.
[16] Acts, 1917, p. 2225.
[17] Acts, 1917, p. 95.
[18] Acts, 1917, p. 318.
[19] Acts, Special Session, 1917, p. 66.
[20] Acts, 1917, pp. 330 and 418.
[21] Acts, 1917, pp. 221 and 225.
[22] Acts, 1917, p. 351.
[23] Acts, Extra Session, 1917, p. 11.
[24] Acts, 1917, p. 358.
[25] Acts, 1917, p. 382.
[26] Acts, 1917, p. 654.
[27] Acts, 1916, p. 170.
[28] Acts, 1916, p. 657.
[29] Acts, 1917, p. 611.
[30] Acts, 1917, p. 176.
[31] Acts, 1917, p. 289.
[32] Acts, 1917, p. 870.
[33] Acts, 1916, p. 158.
[34] Acts, 1917, p. 354.
[35] Acts, 1917, p. 168.
[36] Acts, 1917, p. 41.
[37] Acts, 1917, p. 1279.
[38] Acts, 1917, p. 782.
[39] Acts, 1917, p. 397.
[40] Acts, Special Session, 1917, p. 62.
[41] Acts, 1917, p. 1551.
[42] Acts, 1917, p. 903.

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of securing state-wide security within its borders, New York also created a state police force.[43] The city of New York is authorized to employ emergency police and temporary firemen.[44] In Connecticut the governor is authorized to appoint a military emergency board of three members to perfect and maintain a body of armed troops as a constabulary guard, to be recruited from the unorganized militia of the state,[45] and any town at any annual or special town meeting may appropriate money for the maintenance of military organizations.[46] Florida provided for the organization and equipment of county guards.[47] In Maine the governor is authorized to appoint special constables for the defense of the state,[48] and provision is also made for the appointment of special deputy sheriffs.[49] In Maryland volunteer fire companies or associations, with the approval of the governor and the adjutant-general, may constitute themselves county guards.[50] In South Dakota a state constabulary, consisting of the sheriffs and deputy sheriffs of the several counties, acts under the direction of the state sheriff, appointed by the governor.[51] Texas provided for the organization of the rangers home guard of 1,000 men to protect the border.[52] In West Virginia the sheriff of any county, with the approval of the county court, may appoint not less than ten nor more than one hundred persons as special police deputies for the period of the war.[53] In Indiana a home defense guard is being provided for under direction of the governor and by virtue of an executive proclamation.

Military Census. New York, Connecticut,[54] Delaware,[55] Ohio,[56] Rhode Island[57] and Iowa[58] provided for the taking of a military census to ascertain the resources of the state in men and materials. In New York the census was taken on registration and election days and $150,000 was appropriated to defray the expense.[59]

Registration of Aliens. Several states, including Iowa,[60] New York,[61] Connecticut,[62] Florida[63] and Maine[64] have enacted laws providing for

[43] Acts, 1917, p. 297.
[44] Acts, 1917, pp. 137, 1982 and 2773.
[45] Acts, 1917, p. 2257.
[46] Acts, 1917, p. 2549.
[47] Acts, 1917, p. 88.
[48] Acts, 1917, p. 402.
[49] Acts, 1917, p. 392.
[50] Acts, Special Session, 1917, p. 61.
[51] Acts, 1917, p. 757.
[52] Acts, Special Session, 1917, p. 57.
[53] Acts, Second Special Session, 1917, p. 46.
[54] Acts, 1917, p. 2220.
[55] Acts, 1917, p. 863.
[56] Acts, 1917, p. 591.
[57] Acts, 1917, p. 102.
[58] Acts, 1917, p. 278.
[59] Acts, 1917, pp. 185 and 2491.
[60] Acts, 1917, p. 410.
[61] Acts, 1917, p. 294.
[62] Acts, 1917, p. 2503.
[63] Acts, 1917, p. 271.
[64] Acts, 1917, p. 85.

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the registration of aliens within a fixed period, usually twenty-four hours, after the promulgation of the governor's proclamation, or within twenty-four hours after the alien enters the state. Hotels, boarding and lodging houses are required to supply information as to the residence of aliens therein.

Military Instruction in Schools. The demand for universal military training and instruction in military science expressed itself in several appropriate laws. Louisiana enacted a law requiring the teaching of military science to all male persons in the public schools above the eighth grade.[65] Maryland[66] and New Jersey[67] appointed commissions to investigate the practicability and means of introducing military training and instruction in the public schools. New York created a military training commission, consisting of the major-general commanding the national guard, one person appointed by the regents of the state university and one person appointed by the governor. This commission is required to appoint a physical director and to provide for the introduction of military training and instruction and field drill in all colleges and secondary schools. The instruction extends to all boys between the ages of 16 and 19 years.[68] Arizona provided for the organization, control and equipment of state normal and high school cadet companies and for the promotion of rifle practice.[69] Connecticut authorized the use of rifle shooting on Sunday between the hours of one and six o'clock.[70] South Dakota,[71] Indiana[72] and New York,[73] the latter state by an amendment to an existing act, provided for military instruction in the high schools.

Desecration of the Flag. Several states enacted new or amended old laws prohibiting the desecration, mutilation or misuse of the national flag. This list included Iowa,[74] New York,[75] Connecticut,[76] South Carolina,[77] Texas[78] and Virginia.[79] In addition, several states, including Nebraska,[80] New York,[81] Florida,[82] Maine[83] and New Mexico[84] require the flag to be displayed on all school houses while school is in

[65] Acts, 1916, p. 318.
[66] Acts, 1916, p. 30.
[67] Acts, 1916, p. 427.
[68] Acts, 1916, p. 1854.
[69] Acts, 1917, p. 82.
[70] Acts, 1917, p. 2337.
[71] Acts, 1917, p. 454.
[72] Acts, 1917, p. 150.
[73] Acts, 1917, p. 99.
[74] Acts, 1917, p. 437.
[75] Acts, 1917, p. 106.
[76] Acts, 1917, p. 2314.
[77] Acts, 1916, p. 925.
[78] Acts, 1917, p. 320.
[79] Acts, 1917, p. 608.
[80] Acts, 1917, p. 561.
[81] Acts, 1917, pp. 1252, 102 and 2493.
[82] Acts, 1917, p. 219.
[83] Acts, 1917, p. 450.
[84] Acts, 1917, p. 296.

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session. Virginia enacted a similar law provided a majority of the patrons petition for the display of a flag;[85] and New York extends the provision to apply to court rooms, legislative chambers and public buildings and prohibits the use of the flag on articles of merchandise. Somewhat to the same purpose are two substantially identical laws enacted in Colorado[86] and Minnesota[87] forbidding the playing, singing or rendering of the Star Spangled Banner in any public place or assemblage except as an entire or separate composition or number and under no circumstances as a medley.

Food Conservation. The subject of food production, distribution and conservation has received marked attention and various expedients have been adopted to achieve the desired end. New York created two commissions to deal with the questions of food production, food distribution and food conservation, and the authority of these commissions is extended to comprehend fuel and other necessaries of life. One of these commissions consists of three members, appointed by the governor;[88] and the other consists of the commissioners of agriculture and of education, the dean of the New York college of agriculture, the state director of farm bureaus, the commissioner of foods and markets and four other members appointed by the governor.[89] A third agency known as the department of farms and markets was also created.[90] To facilitate the production of farm crops, the adjutant-general, with the consent of the war department, is authorized to release men from the national guard and the naval militia for farm work.[91] California created a state market commission and a state market director.[92] Connecticut authorized the governing body of any city or town to appoint a committee to purchase and distribute food and fuel when private enterprises are unable to supply the demand.[93] Florida created a marketing bureau and a state marketing commissioner;[94] and Maine created a bureau of markets.[95] Maryland enacted a stringent law prohibiting the storage or hoarding of foodstuffs to enhance the price and corner the market.[96] Montana authorized the establishment of a public market in each county.[97] New

[85] Acts, 1917, p. 327.
[86] Acts, 1917, p. 393.
[87] Acts, 1917, p. 358.
[88] Acts, 1917, p. 2744.
[89] Acts, 1917, p. 851.
[90] Acts, 1917, p. 2671.
[91] Acts, 1917, p. 1360.
[92] Acts, 1917, p. 1673.
[93] Acts, 1917, p. 2553.
[94] Acts, 1917, p. 139.
[95] Acts, 1917, p. 216.
[96] Acts, 1917, p. 20.
[97] Acts, 1917, p. 30.

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Jersey authorized the governing body of any municipality to maintain markets and to purchase and distribute food supplies.[98] New Mexico provided for the extension of coöperative agriculture to promote the production of foods.[99] Oklahoma created a market commission of three members to facilitate the exchange and interchange of commodities.[100] Tennessee defined and prohibited conspiracy to limit the output or control the price of coal,[101] and authorized the various counties to maintain public market houses.[102] Virginia established a division of markets in the department of agriculture and immigration;[103] West Virginia created a bureau of markets,[104] and enacted a law prohibiting speculation for the purpose of cornering the market and controlling the price of foodstuffs, fuel and other necessaries of life;[105] Washington created the office of director of farm markets and provided for the production and marketing of farm products;[106] and Wyoming provided for the exemption of food from taxation to the value of $100.[107]

Definition of Crimes. The existence of a state of war has led to the definition of new offenses against the public peace and the dignity of the state and the re-definition of older offenses to secure the loyalty of citizens and provide for the protection of property and human life. Iowa declared the exciting of sedition or insurrection by writing, speaking or other means a felony and advocating the subversion or destruction of the federal or state government by force and being a member of or attending a meeting or council of any treasonable organization, society or order a misdemeanor.[108] New York authorized the attorney-general to conduct secret investigations to ascertain the loyalty of persons under suspicion;[109] and the governor is authorized to suspend the right to fish, boat or cut ice on any lake, reservoir or other lands or waters owned or controlled by the city of New York.[110] Illinois[111] and Minnesota[112] made it a misdemeanor to interfere with or discourage men from enlisting in the military or naval service of the United States. The destruction or molestation of munition plants,

[98] Acts, 1917, pp. 427 and 147.
[99] Acts, 1917, Extra Session, p. 7.
[100] Acts, 1917, p. 74.
[101] Acts, 1917, p. 410.
[102] Acts, 1917, p. 56.
[103] Acts, 1917, p. 669.
[104] Acts, 1917, p. 44.
[105] Acts, 1917, Second Extra Session, p. 51.
[106] Acts, 1917, p. 471.
[107] Acts, 1917, p. 100.
[108] Acts, 1917, p. 405.
[109] Acts, 1917, p. 1737.
[110] Acts, 1917, p. 1746.
[111] Acts, 1917, p. 269.
[112] Acts, 1917, p. 764.

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armories, gas, electric, telegraph or telephone plants, sources of food or water supply, dams, reservoirs, canals, trenches, machinery, bridges, docks, quays, fortifications, warehouses, railroads or other works necessary to the successful prosecution of the war were constituted crimes in Illinois,[113] Maine,[114] Maryland,[115] Rhode Island[116] and Vermont.[117] New York appropriated $10,000 to defray the expenses of protecting the educational and other property of the state.[118] Idaho[119] and Minnesota[120] defined and prohibited acts of syndicalism, sabotage, advocating crime, violence and terrorism; and Idaho prohibited the placing or inserting of rocks or metallic substances in saw logs.[121] Maine enacted regulations concerning the keeping and sale of dynamite, powder and other explosives.[122] Minnesota prohibits any citizen or subject of any country with which the United States is at war to have any firearms, explosives or the ingredients of any explosives in his possession, or to hunt, capture or kill any game except in self defense.[123] Vermont makes it a crime to have in one's possession plans of fortifications, camps or other military works.[124]

Aid to Dependents. Prior to the passage of the military insurance act the question of the necessary financial assistance to indigent dependents of enlisted or drafted men was of first rate importance, and several states enacted laws which afforded partial and temporary relief. In New York any county, city, town or village is authorized to provide financial aid for the dependents of enlisted men,[125] and an agency known as the New York patriotic fund was permitted to incorporate to furnish aid to the dependents of recruits.[126] In Maine the families of volunteers are supported partially by state aid and partially by aid extended by cities, towns and plantations,[127] and state pay, for a similar purpose, is provided for soldiers and sailors in the volunteer service of the United States.[128] Vermont authorizes cities and towns to appropriate money for the relief of dependent families of members of the national guard, and up to January 18, 1917, state pensions were paid to the dependents of the members of the national guard.[129] Laws

[113] Acts, 1917, p. 351.
[114] Acts, 1917, p. 96.
[115] Acts, 1917, p. 22.
[116] Acts, 1917, p. 41.
[117] Acts, 1917, p. 255.
[118] Acts, 1917, p. 2437.
[119] Acts, 1917, p. 459.
[120] Acts, 1917, p. 311.
[121] Acts, 1917, p. 446.
[122] Acts, 1917, p. 407.
[123] Acts, 1917, pp. 651 and 839.
[124] Acts, 1917, p. 255.
[125] Acts, 1917, p. 903.
[126] Acts, 1917, p. 2726.
[127] Acts, 1917, p. 394.
[128] Acts, 1917, p. 396.
[129] Acts, 1917, pp. 108 and 466.

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somewhat similar in their scope permitting any public officer of the state or any political subdivision thereof to serve on the draft boards and providing that the salaries of such officers as well as their jobs should not be discontinued or interfered with while performing military duties were enacted in New York[130] and New Jersey.[131]

Schools. In New York children are released from school attendance, without loss of credit or standing if they are engaged in farm work.[132] In Arizona the state board of education is authorized to close all educational institutions during the continuance of the war if such action be deemed essential.[133] In Connecticut high school pupils over 14 years of age who volunteer and are accepted for farm work are permitted to reënter school without loss of standing if they maintain the prescribed food standards.[134] In Delaware first aid to the injured is required to be taught where 12 or more grades are maintained;[135] in Minnesota the teaching of patriotism is required in all schools;[136] and in New Jersey additional instruction was provided for aliens.[137]

Banks and Insurance. The bank laws of the state of New York prescribing the aggregate amount of bank deposits and reserves on hand were amended[138] to meet the demands of war finances; and the insurance laws of New York[139] and Minnesota[140] were amended to authorize the insurance of property against bombardment, explosion or act of war and of vessels against marine losses of cargo.

Intoxicating Liquors. A few states have taken steps to eliminate the sale of intoxicating liquors to soldiers. New York forbids the sale of liquor near camps.[141] Maryland prohibits the sale of liquor within two miles of any military camp and authorizes the appointment of five special police to patrol the dry zone, and prohibits the sale of liquor entirely within Prince George county after November 1, 1917.[142] In Vermont no license of the second class for the sale of intoxicating liquor can be granted during the continuance of the war.[143]

Moratorium and Stay Laws. A few states have provided moratorium and stay laws whereby suits begun against enlisted men dur-

[130] Acts, 1917, pp. 2741, 2734 and 1358.
[131] Acts, 1917, p. 883.
[132] Acts, 1917, p. 2211.
[133] Acts, 1917, p. 282.
[134] Acts, 1917, p. 2425.
[135] Acts, 1917, p. 603.
[136] Acts, 1917, p. 135.
[137] Acts, 1917, p. 883.
[138] Acts, 1917, pp. 1354 and 1640.
[139] Acts, 1917, pp. 287 and 288.
[140] Acts, 1917, p. 414.
[141] Acts, 1917, p. 1547.
[142] Acts, 1917, pp. 3 and 32.
[143] Acts, 1917, p. 244.

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ing the war are to be suspended until six months after the war has been concluded and by virtue of which debts due cannot be collected during the continuance of the war. The amount of property owned by enlisted persons and exempted from attachment was increased. Laws of this kind were enacted by Maine,[144] Maryland[145] and Oregon.[146]

Labor Laws. Vermont authorized the commissioner of industries, with the approval of the governor, to suspend the operation of the laws relating to the hours of employment of women and children, during the continuance of the war.[147]

Involuntary Labor. Maryland[148] and West Virginia[149] provide that the governor may order all able-bodied male persons between the ages of 16 and 60, not otherwise regularly employed, to be put to work on government contracts.

Discrimination Against Soldiers. Laws designed to prohibit discrimination against soldiers and sailors in theatres, skating rinks, public conveyances, inns, hotels and other public meeting places were enacted by Maine[150] and Texas.[151]

Miscellaneous. A large number of miscellaneous laws were enacted. Iowa authorized the construction of armory buildings for the use of reserve officers training camps. Massachusetts empowered the adjutant-general to receive any aeroplane donated to the state. Several states have provided for calling retired officers back into active service; some amendment was made in the laws regulating the storage of explosives; and provision was made for the appropriation of real estate for military purposes. Illinois authorized the state council of defense to issue and revoke licenses for the solicitation of war relief and charity funds. The governor of Maine is authorized to commandeer buildings, machinery, equipment, horses, wagons, automobiles, aeroplanes, railroad equipment, wharves, ships, boats, fuel and gasoline for use in war purposes. In Maryland the governor is authorized to declare successive legal holidays for the whole state or any county, city, town or village whenever, in his judgment, during the war, the public interest demands it; and provision has also been made for

[144] Acts, 1917, p. 391.
[145] Acts, 1917, pp. 50, 55 and 57.
[146] Acts, 1917, p. 515.
[147] Acts, 1917, p. 192.
[148] Acts, 1917, p. 80.
[149] Acts, Second Extra Session, 1917, p. 51.
[150] Acts, 1917, p. 173.
[151] Acts, Special Session, 1917, p. 20.

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leasing the state fishing force to the United States. Charleston county, South Carolina, is authorized to levy a special tax to support a naval militia.

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Legislative Investigations. *Arizona.* The appointment of three commissioners to compile, revise and codify the school laws of the state of Arizona was authorized by the last legislature.[1] A legislative committee was also provided to investigate the subject of the establishment of a state smelter and sampling works and make a report to the next Arizona legislature.[2]

California. A commission, appointed in 1915 to investigate the whole problem of social insurance, filed a report of its findings and recommendations with the 1917 legislature. Following this the legislature of 1917 authorized the appointment by the governor of another commission to continue the work and advise the next legislature concerning the adoption of a system of social insurance.[3]

Connecticut. A commission of public welfare was provided for in Connecticut to investigate the advisability of creating an agricultural and industrial board, old age pensions, health insurance, pasteurization plants, free employment bureaus, coöperative societies and pools, experiments and dissemination of information to assist farmers and live stock growers, reforestation, loans to assist the purchase of seed and fertilizer, a state bureau for making rural loans, improvements of byways, the extension of telephone and power companies' facilities in rural districts, hours of labor and minimum wage. This commission will report to the next general assembly.[4]

The commission authorized in 1915 to prepare a revision of the general statutes of the state was continued.[5]

Delaware. The legislature provided for the creation of a commission to study educational conditions and requirements, to unify and revise the school laws, and to evolve an improved and more efficient system of public instruction for the state.[6]

Another act provided for a drainage commission to suggest legislation to the next general assembly looking toward the consolidation

[1] Laws, 1917, p. 176.
[2] Laws, 1917, p. 53.
[3] Laws, 1917, p. 468.
[4] Laws, 1917, p. 2335.
[5] Laws, 1917, p. 2607.
[6] Laws, 1917, p. 628.

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and making uniform of the drainage laws of the state, and particularly to investigate the proposition of drainage by county supervision.[7]

A commission on uniform state laws was also authorized.[8]

Florida. The legislature provided for the designation of nine taxpayers, representing all industries of the state, to ascertain and report to the next legislature such information and recommendations as will aid in drafting a measure for a better system of taxation.[9]

A special committee on revenues and budget served during the last legislative session in investigating the expected revenues of the state for the next two years and in making recommendations as to any needful changes for placing the appropriations and expenditures of the state funds more nearly on a complete budget basis.[10]

The commission appointed in 1915 to investigate the need of a state institution for the care of epileptics and feeble-minded in the state was continued and required to make a full report to the next legislature.[11]

Idaho. A report of a special advisory commission, appointed by the Idaho state board of education to work under its direction in revising the course of study and consider other questions concerning the work of the public schools of the state, will be made to the governor and legislature by January, 1919.[12]

Illinois. A commission for the study of the conditions of industry in which women are engaged, to be known as the Illinois industrial survey, was provided for and will report to the governor prior to the convening of the next legislature.[13]

The Illinois pension laws commission was renewed, to investigate further the operation of all pension laws heretofore enacted in the state, to gather all further available information as to the present and probable future cost of maintaining the funds created by such laws and to collect all further information in regard to the operation of similar laws in other states and countries. This commission will file its report not later than December 1, 1918.[14]

Another commission authorized was a health insurance commission which is to investigate sickness and accident of employees and their families (not compensated by workmen's compensation in the state of

[7] Laws, 1917, p. 890.
[8] Laws, 1917, p. 165.
[9] Laws, 1917, p. 345.
[10] Laws, 1917, p. 339.
[11] Laws, 1917, p. 343.
[12] Laws, 1917, p. 436.
[13] Laws, 1917, p. 519.
[14] Laws, 1917, p. 641.

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Illinois). A full, final report of this commission will be made to the general assembly in 1919.[15]

The mining investigation commission of the state of Illinois was renewed by the legislature, to investigate the methods and conditions of mining coal in the state with special reference to the safety of human lives and property and the conservation of coal deposits.[16]

A commission to revise the primary election laws and election laws of the state and report the same to the next general assembly was authorized.[17]

During the past session a committee conducted an investigation and reported on the problem of the pollution of the waters of Lake Michigan.[18]

Maine. The commissioner of agriculture was empowered to make a study of the methods and cost of marketing farm products and purchasing farm supplies.[19]

Minnesota. In 1916 a special commission was appointed to revise and codify the laws of the state relating to children and report recommendations to the governor. This commission having filed its report, a special joint committee was appointed by the 1917 legislature to consider the recommendations of that commission as well as all other bills concerning child welfare.[20]

An act also was passed providing for the revision and codification of the game laws of the state.[21]

Nebraska. The state railway commission was given authority to make a special investigation of the problem of car shortage.[22]

Nevada. A committee to investigate and report on the subject of marriage and divorce was appointed early in the 1917 legislative session, to present its report to that session if practicable, or if not practicable to the next session.[23]

New Jersey. A commission was provided to investigate the conditions of the penal, reformatory and correctional institutions of the state, which will report to the legislature in 1918 the result of its research and recommendations thereon.[24]

A commission was authorized to investigate into the conditions of institutions of the state which come under the supervision of the de-

[15] Laws, 1917, p. 488.
[16] Laws, 1917, p. 599.
[17] Laws, 1917, p. 805.
[18] Laws, 1917, p. 812.
[19] Laws, 1917, p. 216.
[20] Laws, 1917, p. 874.
[21] Laws, 1917, p. 763.
[22] Laws, 1917, p. 635.
[23] Laws, 1917, p. 479.
[24] Laws, 1917, pp. 65, 989.

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partment of charities and corrections, other than penal, reformatory and correctional institutions, and make a report thereon to the next legislature. Special attention will be given to ways and means of centralizing authority or control over all such institutions, the transfer of inmates and all other questions of betterment and improvement.[25]

Provision was made for a commission to investigate and report to the 1917 legislature on the subject of the high cost of living.[26]

The judiciary committees of both houses of the legislature are to serve as a joint committee to make a survey of questions of public interest and to investigate violations of law and the conduct of any public official, public body, department, board or commission and report to the next legislature the result of its survey together with recommendations.[27]

The commission authorized in 1916 to revise and codify the statutes of the state relating to cities and other municipalities was continued, to revise and codify the statutes relating to counties and other statutes relating to governmental functions of all municipalities and to study the operation of the bills heretofore reported by said commission.[28]

The commission appointed in 1916 for the investigation of the methods employed and the laws which govern the financing of municipal, school district and county affairs was continued.[29]

A commission to be known as the pension and retirement commission to make a survey of the subject of pensions and retirement funds for the employees of the various municipal, county and state governments was appointed to report to the legislature of 1917 or some future legislature.[30]

New Mexico. A commission to investigate the possibilities of the reclamation of the Rio Grande valley and coöperate with duly authorized authorities of the federal government and the states of Colorado and Texas in performing their duties is required to report to the governor not later than December 31, 1918.[31]

New York. It was provided to continue the work of a joint committee of the legislature to investigate and inquire into the report of the board of statutory consolidation on the simplification of the civil practice in the courts of the state and related matters.[32]

[25] Laws, 1917, p. 992.
[26] Laws, 1917, p. 990.
[27] Laws, 1917, p. 996.
[28] Laws, 1917, p. 997.
[29] Laws, 1917, p. 1000.
[30] Laws, 1917, p. 1001.
[31] Laws, 1917, p. 304.
[32] Laws, 1917, p. 1113.

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A New York commission acting jointly with a New Jersey commission is to investigate port conditions at the port of New York and recommend the most effective federal and state legislation which they find is needed.[33]

The surface railroad situation in the city of New York is a subject of investigation by another commission.[34]

The work of a joint legislative committee first created in 1915 to investigate public service commissions was continued.[35]

North Carolina. A joint legislative committee was authorized to compile, collate and revise the public statutes of North Carolina by the time of meeting of the next general assembly.[36]

A special tax commission was directed to make an investigation of the subject of taxation and submit plans of taxation to the next general assembly.[37]

North Dakota. A public welfare commission was created to investigate the economic, moral and social condition of women and child workers in the state.[38]

A special committee to investigate and report on legislation necessary for the relief of floods was provided.[39]

A boundary drainage commission was authorized to act with similar commissions from adjoining states to investigate methods and systems of drainage and reclamation on boundary line waters between North Dakota and other states and to investigate and report the best methods of effecting mutual coöperation between drainage districts or drainage boards of North Dakota and other states.[40]

Ohio. A special commission was provided to conduct an investigation on the subjects of health insurance, sickness prevention and old-age insurance.[41]

The township laws are to be revised, and recodified by a commission appointed for that purpose.[42] Another commission is provided to consolidate and codify the ditch laws of Ohio.[43] Still another commission is to investigate the subject of election laws and revise and recodify the election laws of the state.[44] All three of these commissions are required to file reports with the governor by January 1, 1918.

[33] Laws, 1917, p. 1325.
[34] Laws, 1917, p. 2370.
[35] Laws, 1917, p. 2497.
[36] Laws, 1917, p. 517.
[37] Laws, 1917, p. 640.
[38] Laws, 1917, p. 245.
[39] Laws, 1917, p. 85.
[40] Laws, 1917, p. 98.
[41] Laws, 1917, p. 520.
[42] Laws, 1917, p. 772.
[43] Laws, 1917, p. 611.
[44] Laws, 1917, p. 778.

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Oregon. A committee was appointed to investigate the question of operating the state industrial accident commission without state aid and also of making the workmen's compensation law compulsory.[45]

The state board of control was authorized to appoint a committee to visit all private and public institutions of the state having charge and control of minors and of dependent, delinquent, incorrigible and subnormal children in order to discover the causes and work out ameliorative legislation.[46]

A commission to investigate the several offices, boards, commissions and departments of state as to scope, nature and importance of the different branches of the work of each, and make recommendations concerning consolidation, economy and efficiency, was provided to work during the biennium preceding the next legislative session.[47]

A special committee was authorized to work on an investigation of the problem of unemployment and poverty in Oregon.[48]

The justices of the supreme court of Oregon were empowered to appoint a commission on law reform to investigate and report to the next legislative assembly a plan for the revision and improvement of judicial administration, practice and procedure.[49]

Pennsylvania. The appointment of a commission was authorized for the investigation of sickness and accidents not compensated by workmen's compensation.[50] Another commission was provided to submit a revised penal code.[51] The investigation of insurance laws and the submission of drafts of legislation is to be undertaken by a special commission;[52] and another special commission was appointed to investigate prison systems and correctional institutions and to recommend legislation.[53] The existing banking laws are to be codified by a commission authorized for that purpose.[54]

South Dakota. A state survey of the public educational system of South Dakota, including all schools and educational institutions supported by public funds, was authorized to determine the efficiency of the present system.[55]

An investigating committee will report to the next legislature on the advisability of building and operating, within or without the

[45] Laws, 1917, p. 940.
[46] Laws, 1917, p. 941.
[47] Laws, 1917, p. 958.
[48] Laws, 1917, p. 959.
[49] Laws, 1917, p. 939.
[50] Laws, 1917, ch. 414.
[51] Laws, 1917, ch. 358.
[52] Laws, 1917, ch. 417.
[53] Laws, 1917, ch. 409.
[54] Laws, 1917, ch. 416.
[55] Laws, 1917, p. 307.

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state, terminal elevators and warehouses owned by the state, and for building and operating of state-owned flour mills and state-owned packing plants within the state.[56]

A commission authorized to investigate the advisability and practicability of state-owned and operated coal mines is to report to the next legislature.[57]

Provision was made for a commission to make a complete revision of the codes and statutes of South Dakota.[58]

Utah. The water rights commission is to investigate irrigation and water right conditions throughout the state and also other states with a view to ascertaining what changes in the present irrigation and water rights laws of Utah are expedient and desirable.[59]

A special commission will compile and annotate the laws of Utah and make such recommendations to the next legislature as it deems necessary to improve, harmonize and simplify the laws.[60]

Vermont. A joint judiciary committee was constituted a special joint committee to which was referred the report of the commissioner appointed in 1915 to prepare and submit a revision of the laws of the state.[61]

A commission will consider the matter of a public barge terminal at the port of Burlington on Lake Champlain.[62]

Washington. Under an act creating the office of the director of farm markets and relating to the production and marketing of farm products, that office is authorized to investigate and report annually on the methods of commission merchants, the feasibility of direct dealing between producers and consumers through the agency of the parcel post and mail order methods, problems of farm labor and methods, delays and charges in the transportation of farm products.[63]

West Virginia. Under an act creating in the state department of agriculture a bureau of markets, this bureau is required to investigate the cost of food production and marketing in all its phases.[64]

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[56] Laws, 1917, p. 61.
[57] Laws, 1917, p. 203.
[58] Laws, 1917, p. 204.
[59] Laws, 1917, p. 108.
[60] Laws, 1917, p. 23.
[61] Laws, 1917, p. 431.
[62] Laws, 1917, p. 439.
[63] Laws, 1917, p. 471.
[64] Laws, 1917, p. 44.

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JUDICIAL DECISIONS ON PUBLIC LAW

ROBERT E. CUSHMAN

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Contracts for Public Supplies—Validity of Exclusion of Nonresident Bidders. State v. Senatobia Blank Book and Stationery Co. (Mississippi, July 9, 1917, 76 So. 258). A law forbidding county boards of supervisors to let contracts for stationery to any bidders who are not residents of the state is a reasonable police regulation designed to make sure that those who do work for the state shall be amenable to the jurisdiction of its courts. Its affect upon interstate commerce is too incidental to constitute undue interference with such commerce. Since no printer or stationer has any constitutional right to work for the state those against whom the statute discriminates cannot claim that their privileges and immunities as citizens have been impaired, or that they have been deprived of liberty or property without due process of law or denied the equal protection of the law.

Intoxicating Liquors—Constitutionality of Prohibition Statute. Pine v. Commonwealth (Virginia, September 20, 1917, 93 S. E. 652). The prohibition statute of Virginia, passed in 1916, was an elaborate act forbidding the manufacture, sale, keeping for sale of intoxicating liquors, as well as several incidental acts, and providing machinery for enforcement. The validity of this law was attacked on the ground that the prohibition clause of the state constitution provided merely that the general assembly should have full power to enact laws "prohibiting the manufacture or sale of intoxicating liquors." No express authority is given to forbid "keeping for sale" or anything else except manufacturing and selling. On the theory that the enumeration of certain powers is the exclusion of others it was argued that the legislature had exceeded the limits of its authority in passing the act in question. The court decided that the constitutional clause cited is permissive only and does not operate to take away any of the absolute power of the legislature over the whole subject of intoxicating liquors.

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Jurisdiction—Crime of Commander of Public Vessel of Friendly Nation in American Port. United States v. Thierichens (U. S. District Court, March, 1917, 243 Fed. 419). The defendant was the commanding officer of a German cruiser in an American port prior to the outbreak of war with Germany. He was indicted for violation of the federal white slave act and also for smuggling. He contended that as commander of a public armed vessel of a friendly nation he was not subject to the jurisdiction of the courts of this country. The court decided, however, that the immunity claimed extends only to the acts of such an officer while acting in his official capacity as an agent of his government. To claim that the defendant was acting as a German commanding officer in violating the white slave act "lends dignity to an absurdity." Nor was there evidence to show that he was acting for his government in smuggling. The United States court was held to have jurisdiction over him.

Minimum Wage—Constitutionality. State v. Crowe (Arkansas, June 4, 1917, 197 S. W. 4). The Arkansas minimum wage law required the payment of $1.25 per day to female workers having six months experience in any line of industry and $1 per day to those with less experience. This law does not violate the due-process clause of the fourteenth amendment by unduly interfering with the freedom of contract of employers and employees. Two lines of cases are relied upon in support of this view. In the first group are the decisions upholding limitations of the hours of labor of women. In the second place, the cases holding valid laws forbidding the employment of women in saloons indicate that the police power may resort to various discriminations in behalf of women. The court takes judicial notice of the fact that the health and morals of women as well of the virility of their children are jeopardized by insufficient wages. All the arguments in support of the laws limiting the hours of labor of women apply with equal force to a minimum wage statute.

Monopoly under Sherman Act—Selling Losing Business to Sole Competitor. American Press Association v. United States (U. S. District Court, August 25, 1917, 245 Fed. 91). It is not a violation of the Sherman Act for a corporation which is running a losing business to sell that business to its only competitor in the field instead of disposing of its plant as junk. "Not every joinder of competing businesses or acquisition of instrumentalities that have been used in competition is

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an undue restraint of trade or a creation of a monopoly." The rule of reason must be applied in such cases and the best way of testing the legitimacy of such an act is by the injury to the public which it involves. No such injury could be shown in this case.

Public Utility—Cotton Gin—Illegal discrimination among patrons. Tallassee Oil and Fertilizer Co. v. Holloway (Alabama, June 21, 1917, 76 So. 434). It is unlawful for the owner of a cotton gin who undertakes to gin for the public to refuse to gin the cotton of persons who refuse to sell him the seed. A commercial cotton gin is a public utility and subject to regulation by the state. The practice described amounts to discrimination among the patrons of the gin and also tends to create a virtual monopoly of the cotton seed business. It is contrary to public policy and may be permanently enjoined.

Rural Credit—Constitutionality. Schaaf v. South Dakota Rural Credit Board (South Dakota, October 27, 1917, 164 N. W. 964). The South Dakota rural credits law of 1917 was passed under authority of a constitutional amendment adopted the year before relating to that subject. While this amendment was necessary to make such an act constitutionally possible it had the effect of removing completely the constitutional disabilities which previously existed. The nature of the rural credits system indicates the absence of any intention to bring its operation within the scope of the $100,000 state debt limit. The classification of the land in the state into urban and rural and the establishment of a rural credits system which directly benefits only the latter class of land is not arbitrary and unreasonable discrimination and does not deny to urban citizens the equal protection of the law.

Teachers' Pensions and Insurance—Constitutionality. State v. Hauge (North Dakota, July 28, 1917, 164 N. W. 289). The act in question required the county treasurer to set aside from the "county tuition fund" ten cents for each child of school age in the county, to be sent to the state treasurer to constitute a teachers' pension and insurance fund. This is not an unconstitutional diversion of local funds to a general state purpose since the county school moneys are raised by the state taxing power and are subject to state control. There is ample authority, supported by long continued usage, that money paid out in pensions is spent for a public purpose and teachers' pensions are further justified as suitable aids in the maintenance of the public school

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system. They are to be regarded as additional salary allowances to public servants and are not forbidden by the constitutional prohibition against donations of state money to individuals.

War Problems. *Conscription Act—Constitutionality.* United States v. Sugar (U. S. District Court, July 10, 1917, 243 Fed. 423); Story v. Perkins (U. S. District Court, August 20, 1917, 243 Fed. 997). These cases uphold the constitutionality of the conscription act. In the case of United States v. Sugar the court considers and disposes of a rather wide range of attacks upon the validity of the law. In the first place conscription does not subject the drafted man to "involuntary servitude." The thirteenth amendment is aimed at enforced labor between individuals and does not forbid the compelling of public service to the state. It is useless to urge, in the second place, that the exemptions provided for by the act make it class legislation since there is no constitutional prohibition against class legislation by the national government. Third, it is unnecessary that any appeal should lie to the civil courts of the United States from the decisions of the draft exemption boards since those boards are military courts and the authority to organize them comes from the grant of congressional power over the army and navy rather than from the judicial article of the Constitution. Fourth, the statute does not confer legislative and judicial power on the President but merely empowers him to fill in the details of a law already complete in order to make it practically effective. In the fifth place, the conscription act did not involve an exercise of power not granted to congress by the Constitution since it establishes compulsory military service, inasmuch as conscription is a reasonable means of exercising the specifically delegated power to raise and support armies. Finally, the act does not contravene the clause of the Constitution allowing congress to call forth the militia "to execute the laws of the union, suppress insurrections, and repel invasions." It does not call forth the militia but instead it drafts the members into the national army and discharges them from the militia. This the national government has a right to do despite the previous membership of the drafted men in the national guard.

The opinion of the case of Story v. Perkins touches briefly upon the first and last points just mentioned and in addition considers the objection that the conscription act deprives a person of his common law right to remain within the realm. It is pointed out that an act of congress cannot be declared void because it is inimical to the common

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law since the only limits upon congressional authority are to be found in the Constitution. The Constitution gives congress the right to raise and support armies and that power is plenary.

On January 7, 1918, the United States Supreme Court handed down a unanimous decision upholding the selective conscription law.

Draft Exemption Boards—Habeas Corpus to Review Decision of. United States v. Heyburn (U. S. District Court, October 13, 1917, 245 Fed. 360). The civil courts will not interfere with the findings of a lawful military tribunal by issuing a writ of habeas corpus unless it is clear that there has been "want of jurisdiction, usurpation of power, or arbitrary denial of rights." The draft exemption boards have been created for the purpose of deciding important questions of fact relating to the administration of the conscription act. They possess independent jurisdiction. The writ of habeas corpus cannot be made a substitute for a writ of error. The fact of citizenship here disputed is a fact which can be determined as well by the exemption board as by any other tribunal and there is no reason why the court should exercise in regard to that question an appellate jurisdiction which has not been conferred upon it.

Enemy Aliens—Their Right to Sue. Speidel v. N. Barstow Co. (U. S. District Court, July 27, 1917, 243 Fed. 621); Rothbarth v. Herzfeld (N. Y. Sup. Ct. App. Div., November 9, 1917, 167 N. Y. Supp. 199); Taylor v. Albion Lumber Co. (California, October 19, 1917, 168 Pac. 348). These cases are alike in holding that when the plaintiff in litigation begun before the outbreak of war becomes an enemy alien the case should be suspended until the close of the war but not dismissed. In Speidel v. N. Barstow Co. the plaintiffs were four partners, two of them enemy aliens residing in Germany and two enemy aliens living in this country. The action was for the infringement of a patent. The court does not decide whether the resident enemy aliens would have the right alone to prosecute the suit. The monopoly granted by a patent is not divisible into parts and to suspend the suit for two of the plaintiffs while allowing the other two to proceed would subject the defendant to two suits, one now and one at the close of the war. Accordingly the suit as a whole, affecting all the plaintiffs, is suspended during the war. In the case of Rothbarth v. Herzfeld it is pointed out that it is unnecessary to have a trial on the special issue of the alien enemy character of the plaintiff in an

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action. The court is at liberty summarily to suspend the case as soon as it becomes convinced that the plaintiff is an alien enemy. In Taylor v. Albion Lumber Co. an enemy alien was plaintiff in error in action for damages and before the outbreak of war had secured a reversal of the judgment of the court below and an order for new trial. To dismiss the suit outright on the ground of the alien enemy character of the plaintiff would be in effect an affirmance of a judgment already declared by the appellate court to be erroneous. The case was accordingly suspended for the period of the war.

Enemy Aliens—As Shareholders in Domestic Corporation. Fritz Schulz, Jr., Co. v. Raimes and Co. (New York, Supreme Court, July 19, 1917, 166 N. Y. Supp. 567). The plaintiff is a New Jersey corporation. It has fifty shares of stock, forty-seven of which are owned by enemy aliens resident in Germany. Three of the four directors are either American citizens or have taken out first papers to become such. The case involves the right of this corporation to sue in an American court during the war. After a careful examination of authorities the court decides that the courts of this country have almost unanimously regarded a corporation as an entity separate and apart from the incorporators. If all the shareholders and officers of the corporation were enemy aliens resident abroad it would doubtless be impossible for it to continue to act as a corporation or distribute profits, but so long as the directors and manager are resident in this country and able to control its affairs there is no ground upon which the plaintiff corporation can be denied its right of access to the courts.

Home Defense Guards—Right to Incorporate. In re Proposed Incorporation of Long Beach Defense Guards (New York, Supreme Court, July 16, 1917, 166 N. Y. Supp. 459). This case denies the right of the so-called home defense guards to incorporate under the New York statutes. First, a membership corporation may not be formed for any purpose for which a corporation may be created under any other general law. The home defense guards, as part of the reserve militia of the state, are subject to organization and regulation as the governor of the state may direct. Second, there is a provision of the military law of the state forbidding any body of men with enumerated exceptions from "associating themselves together as a military company or organization." Finally, the military law forbids the incorporation of any body of men under a name which would mislead persons into be-

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lieving that such corporation is connected with the national guard or naval militia. The name of the proposed corporation is held to be thus misleading.

Seditious Publications—Exclusion from Mails. Masses Publishing Co. v. Patten (U. S. District Court, July 24, 1917, 244 Fed. 535; *also* U. S. Circuit Court of Appeals, August 6, 1917, 245 Fed. 102); Jeffersonian Publishing Co. v. West (U. S. District Court, August 29, 1917, 245 Fed. 585). These cases involve the right of the postal authorities to exclude from the mails under the provisions of the Espionage Act certain publications alleged to be within the prohibitions of that law. The district court in the Masses Publishing Co. v. Patten case decided that the periodical in question was not in the non-mailable class. It pointed out that the question raised was not what congress might do in the way of establishing a press censorship but what it had actually done. The Espionage Act allows the exclusion from the mails of matter containing false statements for the purpose of interfering with the military success of the United States, statements which will cause insubordination, disloyalty or mutiny, or which wilfully obstruct recruiting or enlistment. The cartoons and articles which the government objected to could not be called false since they were in the nature of expressions of opinion. There was, furthermore, no direct incitement to insubordination, disloyalty, or resistance to the draft or any direct effort to obstruct enlistment. It is direct incitement which the law condemns and not indirect. On this theory articles which expressed admiration of those who were in prison for resisting conscription were held not to be in violation of the law since there is a difference between voicing esteem and advising emulation. The circuit court of appeals, however, in reviewing the case, did not take this view. It pointed out that "it is at least arguable whether there can be any more direct incitement to action than to hold up to admiration those who do act," and concluded that indirect incitement to disloyalty or resistance was clearly within the prohibition of the statute. It further declared that there was a strong presumption in favor of the correctness of the interpretation placed upon the law by the postmaster general and in the present case there was not sufficiently clear ground for overruling him. In Jeffersonian Publishing Co. v. West the action of the postal authorities was upheld in a somewhat fervid opinion presenting no unique features.

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Woman Suffrage Cases. *Municipal Suffrage in Home Rule Cities.* State v. French (Ohio, April 3, 1917, 117 N. E. 173). A municipality adopting a home rule charter may incorporate in it a provision allowing women to vote in municipal elections. This is true in spite of the fact that the state constitution stipulates that "white male citizens" may vote.

The power of a home rule city thus to regulate municipal suffrage qualifications rests upon the analogy of the school suffrage cases. An early Ohio decision upheld the right of the legislature to allow women to vote in school elections on the ground, first, that school officers were not mentioned in the state constitution, and second, that that document gave the legislature full power to establish and maintain a common school system. If this case is sound, as is indicated by an overwhelming weight of authority, then for the same reasons the grant to cities by the constitution itself of authority over all municipal affairs would seem to include the right to regulate the qualifications of voters in municipal elections which are not provided for by the constitution. The court was asked to uphold the power in question on the theory that the legislature may determine the suffrage qualifications for all elections not specifically mentioned in the constitution and that the city is here acting in the place of the legislature. It declined, however, to affirm or deny the soundness of this doctrine, preferring to base its decision upon the less controverted ground above stated. An elaborate dissenting opinion is appended to that of the majority.

Suffrage by Legislative Grant for Extraconstitutional Offices. Board of Election Commissioners of City of Indianapolis v. Knight (Indiana, October 26, 1917, 117 N. E. 565). The "Partial Suffrage Act" of Indiana, passed in May, 1917, purported to confer upon women the right to vote for all officers and questions not mentioned in the state constitution but provided for by statute. A taxpayer's action to enjoin the enforcement of the act alleged its unconstitutionality. In holding the statute invalid the supreme court of Indiana has added an important decision to what now seems to be the weight of authority in an exceedingly interesting conflict of law.

The issue raised in this case is briefly this: Does a clause of the state constitution, defining suffrage qualifications in terms of male citizenship and residence, prevent the legislature from extending to women the right to vote in elections not provided for or mentioned in the constitution but created by the legislature itself?

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The argument supporting the right of the legislature to confer this partial suffrage upon women ran something as follows: The constitutional clause providing for male suffrage is not a grant to the legislature of power it would otherwise lack but merely a limitation upon its otherwise unlimited authority in the matter of suffrage qualifications. It is a restriction, furthermore, only in respect to the offices and questions specifically mentioned in the constitution. Accordingly the clause in the Indiana constitution giving male citizens the suffrage "in all elections not otherwise provided for by this Constitution" actually means that the male monopoly of the right to vote exists only "in all elections mentioned in this Constitution and not otherwise provided for by it," and that the legislature may fix suffrage qualifications to suit itself in all other elections. This position was alleged to be further strengthened by another clause which stipulated that "all officers whose appointments are not otherwise provided for in this Constitution shall be chosen in such manner as now is, or hereafter may be, prescribed by law."

These arguments found no favor with the Indiana court. Its opinion, invalidating the suffrage law, may be summarized under five main heads. First: The constitutional clause defining suffrage qualifications is an exception to the usual rule that state constitutional provisions are restrictions on legislative power rather than grants of authority. This clause is the source of the power of the legislature to make laws regarding the right to vote and that body has no power over suffrage qualifications which is not authorized by or is in conflict with this provision. Second: The constitution does state that officers whose appointments are not otherwise provided for in the constitution shall be chosen "in such manner as now is, or hereafter may be, prescribed by law." But this right to prescribe the "manner" in which officers are to be chosen "has reference only to the method or mode of selection (whether by appointment or popular election), and does not include the power to determine the qualifications of the legal voters." Third: The cases which have sustained the power of the legislature to extend suffrage to women in school elections, without specific constitutional sanction, do not constitute precedents for the present suffrage law. The right to control the school suffrage is based on the plenary constitutional authority of the legislature "to develop the public school system and provide for its administration." Fourth: The clause in the Indiana constitution giving male citizens the suffrage "in all elections not otherwise provided for by this Constitu-

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tion," must be construed as meaning literally "all elections," regardless of their origin, "for anything connected with the general government, or the state or local government." By its terms the clause leaves no room for legislative control of suffrage in extraconstitutional elections. Finally, a survey of the legislative history of the state in the matter of legislative control of suffrage qualifications, a survey too extended even to be summarized, leads to the conclusion that there is no respectable precedent for the authority claimed in the partial suffrage act.

This interesting opinion invites brief comparison with the conflicting Illinois decision in Scown v. Czarnecki (1914), 264 Ill. 305, 106 N. E. 276, upholding the constitutionality of the Illinois partial suffrage act of 1913. With statutes of precisely the same character and with constitutional clauses relating to suffrage qualifications which were practically identical, the issues raised in these two cases are exactly the same. The supreme courts of Indiana and Illinois differ irreconcilably upon two points. In the first place, is the constitutional clause defining suffrage qualifications a grant of legislative power or is it a limitation upon it? The Indiana court takes the former view and the Illinois court the latter. The Illinois theory leaves the legislature in possession of residuary power to control suffrage qualifications in the absence of specific constitutional inhibition. The Indiana doctrine gives no such power. In the second place, there is a clash as to the proper way to interpret the school suffrage cases, precedents for the legislative regulation of suffrage qualifications too numerous and long-standing to be ignored or lightly brushed aside. It has been seen that the supreme court of Indiana declares that the power of the legislature to prescribe the qualifications of voters in school elections is based on the plenary power of that body over the public school system and not upon the fact that school elections are of statutory rather than constitutional origin. The school suffrage is thus entirely anomalous and has been so regarded by the courts. The Illinois court takes the opposite view. Even courts which have recognized in school suffrage cases the unrestricted power of the legislature over the school system have not permitted that body to alter the constitutional suffrage qualifications for school elections provided for by the constitution. It is the nonconstitutional character of the school election which has made it possible for the legislature to control school suffrage. Furthermore there is nothing peculiar about the grant of authority to maintain a school system, and no reason why it alone of all the constitu-

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tional clauses granting legislative power should carry with it, by implication, this highly important control over suffrage qualifications.

It must be admitted that several of the school suffrage cases would seem to be conveniently available as authorities for both sides of this controversy. (Plummer v. Yost, 144 Ill. 68, 33 N. E. 191; Belles v. Burr, 76 Mich. 1, 43 N. W. 24.) It is not surprising, therefore, to find the Indiana court citing them for its own use and criticizing the reliance upon them of the supreme court of Illinois as "an erroneous application of the doctrine of stare decisis." Its view of these cases seems furthermore to be the same as that of the supreme court of Michigan, expressed in a case denying the right of the legislature to regulate municipal suffrage qualifications. (Coffin v. Board of Election Commissioners, 97 Mich. 188, 56 N. W. 567.)

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NEWS AND NOTES

EDITED BY FREDERIC A. OGG

University of Wisconsin

Professor George Ray Wicker, of the economics department in Dartmouth College, died at Hanover, New Hampshire, November 25.

Professor W. W. Willoughby, of Johns Hopkins University, is spending the year in Washington, assisting in the work of the Institute for Government Research. Dr. A. C. Millspaugh, associate in political science, is conducting graduate courses, as well as the undergraduate work, at Johns Hopkins.

Professor Henry R. Spencer, of Ohio State University, has been granted a leave of absence to do organization work for the Y. M. C. A. in Italy. Professor E. A. Cottrell will act as head of the department for the remainder of the year.

At the recent meeting of the Association of Urban Universities in Pittsburgh papers were presented on the relation of the university to the municipality by Dr. Frederick B. Robinson of the College of the City of New York, and Professors C. M. Wright of the University of Pittsburgh and Edwin A. Cottrell of Ohio State University. These papers covered from different points of view the subject of training for the public service.

Professor C. C. Maxey, of Oregon State Agricultural College, is spending the year in graduate study at Columbia University.

Professor E. A. Gilmore, of the University of Wisconsin Law School, is on leave of absence for the year. During the first semester he delivered lectures at the University of California. The remainder of the year is to be spent in the Orient.

Miss Grace Abbott, of Hull House, formerly secretary of the immigrants' protective league of Chicago, has been made director of the child labor division of the Children's Bureau at Washington.

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Dr. Jesse F. Steiner, formerly instructor at the University of Chicago, has been appointed instructor in social science at the University of Cincinnati.

A department of political science has been organized at Ohio Wesleyan University. Mr. W. A. Jones, president of the W. R. Jones Glass Company, Columbus, Ohio, a graduate of Ohio Wesleyan in 1897, by his gift to the university has made possible the establishment of this department. Dr. B. A. Arneson, a graduate of the University of Wisconsin, where he likewise received his degree of Ph.D., has been appointed head of the department.

The political science department of Amherst College is coöperating with the bureau of municipal research in Springfield, Mass., in a plan by which advanced students in municipal government spend part of their time in practical work in city administration.

Professor J. M. Mathews, of the University of Illinois, is engaged in the preparation of a work on the recent political history and government of Illinois. It will form a part of the series of publications to be issued by the state of Illinois in celebration of the one-hundredth anniversary of the admission of the state into the Union.

Dr. Alejandro Alvarez, secretary general of the American Institute of International Law, has given a series of lectures on international relations at several colleges and universities. His general theme has been the reorganization of international law as a consequence of the world war and the need of leadership in the Americanization of political science.

The University of California will celebrate its fiftieth anniversary in March, 1918. A faculty committee is making plans for a conference at that time on international problems of the Pacific, of a political, economic, or scientific nature. Invitations will probably be sent to the leading institutions of learning in all the countries bordering on the Pacific Ocean. Dr. Edward Elliott, professor of international law and politics, and Dr. William Macdonald, lecturer in government, are members of this committee. Dr. J. R. Douglas is acting as secretary.

Professor John H. Latané, of Johns Hopkins University, has been elected one of the eleven members of the Baltimore charter commission.

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Four members of college faculties have been active members of the Massachusetts Constitutional Convention. These are: A. B. Hart, Harvard; George B. Churchill, Amherst; James P. Richardson, Dartmouth; Frederick L. Anderson, Newton Theological Seminary.

A meeting of the National Institute of Social Sciences, held in New York City on January 18, was devoted to a consideration of problems of reconstruction after the war.

A comprehensive review of "The Legislation of the Thirty-seventh General Assembly of Iowa," by Professor F. E. Horack, has been compiled and issued under the direction of the State Historical Society of Iowa. The monograph fills eighty pages and is supplied with a detailed index.

A backward step was taken in Oregon at the last election by the adoption of an "economy" amendment which requires municipal officers to be elected at the same time as state and county officers. The consolidation of the governments of the city of Portland and Multnomah county is again being agitated. A constitutional amendment permitting such consolidation was defeated at the election of 1914. The committee on consolidation of state offices has so far devoted most of its attention to a study of the existing state administration.

At the annual meeting of the Academy of Political Science in the city of New York, held December 14–15, the subjects considered were: transportation, shipping, and aircraft production; food, fuel and thrift; the welfare of soldiers and sailors; and the regulation of capital and labor during the war. Among persons who made addresses were Irving T. Bush, Daniel O. Willard, Howard E. Coffin, H. A. Garfield, F. A. Delano, Leo S. Rowe, Miss Julia C. Lathrop, R. S. Fosdick, Joseph E. Davies, and Samuel Gompers.

The bureau of legislative information of Indiana, whose appropriation was cut off at the last session, has been reinstated by Governor James P. Goodrich and combined with the bureau of statistics. The bureau is engaged in the work of preparing the Indiana Year Book which will combine brief reports of all the state offices, boards and commissions, together with the social and economic statistics of the

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state. Dr. Charles Kettleborough, who has been for a number of years statistician for the bureau of legislative information, is now in charge of the bureau. Mr. John A. Lapp has been appointed director of the state investigation in Ohio of sickness insurance, sickness prevention and old-age pensions.

Among the important war measures of the United States national government may be noted new regulations for the selective military service and for enemy aliens, issued in November, and the government control of railroads, at the end of December, under W. G. McAdoo as director-general. Additional administrative agencies include a commission to the allied war conference at Paris, headed by E. M. House, a joint allied naval council, a war-industries board, a food purchase board, a custodian of enemy property, and a war council to advise the secretary of war.

Annual Meeting. The fourteenth annual meeting of the American Political Science Association was held at Philadelphia, December 27–29, 1917. The total number of members who registered was 125. The sessions of the first day were held at the Bellevue-Stratford Hotel, those of the second day at the University of Pennsylvania, and those of the third day at Haverford College. The sessions were well attended and the degree of interest shown was very satisfactory.

At the opening session, on constitutional law, papers were read by Professors T. R. Powell of Columbia University, James T. Young of the University of Pennsylvania, and Albert M. Kales of Chicago. A paper prepared by Professor Charles G. Haines of the University of Texas was read by Professor E. M. Sait of Columbia University. At a session on political theory an important paper was presented by Professor W. W. Willoughby of Johns Hopkins University, and discussed by Professors Munroe Smith of Columbia University and Robert T. Crane of the University of Michigan. The presidential address, "The Nature and the Future of International Law," was delivered by Professor Munroe Smith at a joint meeting with the American Economic Association and the American Sociological Society.

On Friday morning, at a session devoted to the general subject of political science and domestic reconstruction, papers were read by Mr. H. S. Gilbertson, and Professors Henry Jones Ford of Princeton University, and A. R. Hatton of Western Reserve University, and the work of the Institute for Government Research at Washington was

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explained by the director, Professor W. F. Willoughby. The subject of political science in relation to public thought and actual government was taken up at the afternoon session, at which papers were read by Professors Ford, W. F. Dodd, Benjamin F. Shambaugh of the University of Iowa, and Robert McElroy of Princeton University.

A luncheon conference was held on Saturday at Haverford College, at which the subject of instruction in political science was discussed by Professors J. L. Barnard of the Philadelphia School of Pedagogy, Everett Kimball of Smith College, and O. D. Skelton of Queens University. At a final joint session of the various associations meeting in Philadelphia papers were read by Mr. Edward P. Costigan of the U. S. Tariff Commission, Professor Wallace Notestein of the University of Minnesota, and Mr. R. H. Brand, Deputy Vice-Chairman of the British War Mission.

At the business meeting of the association, held on the morning of the 29th, the acting secretary-treasurer submitted a report on the membership of the association showing the following facts:

Present membership, 1518 (a net loss of 29 during the year); applications for membership on hand, 64.

Life memberships fully paid, 54.

Total outstanding dues, $936.

The acting treasurer's report showed total receipts for the year amounting to $4876.39, and total expenditures amounting to $4246.75. In view of the shrinkage in membership and the greatly increased cost of publishing the REVIEW, the executive council recommended, and the association adopted, an amendment to the constitution reading as follows: "Any person may become a member of this association upon payment of four dollars, and after the first year may continue such by paying the annual dues of four dollars; life membership may be acquired by payment of $75 in a lump sum, or in five annual installments of $15 each." The first clause in this article became effective upon the adoption of the amendment; the second clause will be effective on and after July 1, 1918. The increase of dues provided for in this amendment was made imperative by the financial condition of the association. The council is confident that with this change the association can continue on a sound financial basis.

Officers were elected for the ensuing year as follows:

President, Professor Henry Jones Ford, of Princeton University.

First Vice-President, Professor David P. Barrows, of the University of California.

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Second Vice-President, Mr. Edward Porritt, of Hartford, Conn.

Third Vice-President, Professor A. R. Hatton, of Western Reserve University.

Secretary-Treasurer, Professor Chester Lloyd Jones, of the University of Wisconsin.

The following persons were elected members of the council for the term ending in 1920: W. F. Willoughby of Washington, D. C., T. R. Powell of Columbia University, Karl F. Geiser of Oberlin College, Lindsay Rogers of the University of Virginia, Clyde L. King of the University of Pennsylvania.

On motion of John A. Fairlie, managing editor of the REVIEW, all of the members of the board of editors were reëlected.

The executive council was authorized to decide whether a meeting of the association shall be held in 1918, and to determine the time and place.

For the committee on the preparation of a critical bibliography of political science, Professor Edgar Dawson reported progress.

It was announced that the council has provided for a special committee of five to inquire into and report upon the status and methods of training schools for public service, and also a standing committee on instruction.

The following resolution was adopted:

"The American Political Science Association, in annual session at Philadelphia, pledges its support to the President and government of the United States in the prosecution of the present war. The association and its members stand ready to render any service that may be within their power."

Professor W. W. Willoughby was instructed to communicate this resolution to the President of the United States and was appointed a committee of one to serve as an intermediary between the association and the various branches of the government in placing the services of the association and its members at the government's disposal.

FREDERIC A. OGG

Impeachment of Governor Ferguson. The recent removal from office of Governor James E. Ferguson of Texas as a result of impeachment proceedings has a two-fold interest for most readers of the AMERICAN POLITICAL SCIENCE REVIEW. On the one hand it has a unique governmental interest, as one of the very rare occasions on which an American state executive has been removed from office. On the

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other hand it reveals the attempt and failure of a megalomaniac in the governor's chair to dominate the state university by political methods for political purposes. These two aspects of the case, though distinct enough in their nature, were, of course, closely intertwined throughout the proceedings and can with difficulty be separated in their treatment. But for the sake of clarity, some of the interesting governmental points involved will first be considered.

The first question that arose was whether, under the Texas constitution, the house of representatives could assemble for impeachment proceedings at all except on the call of the governor, and if so what authority could call it together. The constitution provides for regular biennial sessions and for special sessions on call of the governor, but for no others. The speaker of the house called a special session on his own motion for the purpose of preferring charges of impeachment. At first the governor and his friends were inclined to ignore the call, as being utterly without constitutional authority; and hence, they claimed, all proceedings taken thereunder would be without any validity whatever. Indeed, not many weeks before sending out this call the speaker of the house is reported to have declared that he had no authority to issue such a call; consequently his change of attitude was interesting. But that is another story.

When it seemed apparent that the opponents of the governor would assemble in sufficient numbers in answer to the call to constitute a quorum and transact business, his advisers were afraid to let matters take their course and leave the proceedings to the governor's opponents. Taking the bull by the horns, the governor at the eleventh hour issued a call for a special session of the legislature to meet on the same day as the one set for the assembling of the house to consider impeachment proceedings. The declared object of this hurried special session was to consider the University of Texas appropriation bill, which the governor had attempted to veto at the close of the regular session of the legislature. The real object of the called session was of course obvious. Fearing to rely on the alleged invalidity of proceedings that might be instituted by the house assembling on the call of the speaker, the governor now trusted to forestall impeachment by calling the legislature together for a special purpose, in the hope that it would be accepted that in such a case no other business might be taken up. The really doubtful point for which there was no precedent, namely, the assembling of the house on call of the speaker, was therefore waived; and reliance was placed on a contention which was clearly

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involved in the Sulzer case in New York, and settled in that case in favor of the power of the house when called in special session to take up impeachment proceedings.

The first business the house took up was the filing of charges by the speaker, and the hearing was begun immediately. After some weeks of testimony and investigation the house formally voted by a large majority twenty-one articles of impeachment, thereby suspending the governor from office. The prosecution of the charges was entrusted to a board of managers selected by the house, aided by special counsel. The senate spent some weeks in a hearing on the charges, and then voted on the articles separately, a two-thirds vote being necessary to sustain them. Ten of the articles were so sustained and judgment of the senate was pronounced on September 25, removing the governor from office and disqualifying him from ever holding any office of trust or profit under the state. A number of points were raised on demurrer by his defenders, but they were not considered separately, being decided adversely by the vote on the separate articles. Among the contentions so raised and decided was one that the proceeding before the senate was a criminal suit and entitled the governor to a trial by jury.

Of the ten articles of impeachment which were sustained, the majority referred to the misapplication of public funds by the governor. Three of these ten were sustained by a vote of 27 to 4, the four senators voting "no" on these three articles voting in the negative also, without discrimination, on every one of the twenty-one articles.

So much for the governmental aspects involved. All through the proceedings and the steps that led up to it, however, runs the controversy between the former governor and the university. Starting from a very small beginning, the governor's animosity towards the institution gradually grew until in the fall of 1916 it culminated in his demand that certain members of the faculty be removed by the board of regents without a trial or hearing, even without reasons. "I am governor of Texas. I don't have to give any reasons," was his seventeenth-century conception of the executive power of the state, as unblushingly expressed by him. The regents held an investigation and completely exonerated the members of the faculty in question. There is no space here to go into the nature of the charges brought forward by the governor at the hearing. Suffice it to say that they referred in large part to alleged political activity of some of the professors.[1]

[1] See printed record of proceedings before the board of regents in University of Texas Bulletin.

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"Biting the hand that feeds them" was the view the "outraged" governor took of the situation.

Failing in his attempt to have the regents take the desired action, the governor waited until the expiration of the terms of three members of the board to fill the places with men who he thought would stand hitched. By bullying the independent members of the board, he succeeded in getting one to resign and threatened to remove others, which was clearly not within his power, finally actually appointing a new member in the place of an objectionable one who refused to resign. Meanwhile the newspapers of the state had rallied to the cause of the university and the alumni had organized effectively, until the governor, enraged by a student parade and by his inability to accomplish his ends, vetoed the entire university appropriation. That is, he attempted to veto it, and thought he had, though the attorney general ruled the veto was ineffective for several reasons. Injunction proceedings were resorted to in order to prevent action of the regents, but in July the board met and dismissed a number of the faculty members who had been objected to by the governor. No semblance of a hearing was held, the names were just dropped when the budget was taken up. The governor meanwhile was making speeches attacking the university and defending his action, while the friends of the university were urging impeachment proceedings.

While the real motive for calling the house together was not primarily opposition to the actions of the governor with regard to the university, it is also true that the governor made the university matter the chief issue and that three of the articles of impeachment which were sustained dealt with the governor's action in trying improperly to control the board of regents. It was, therefore, in a very real sense a university fight from start to finish and its outcome a clear victory for the friends of a university free from political domination.

The sequel is quickly told. The legislature which impeached the governor repassed the identical appropriation vetoed by him. The senate approved new nominations to the board of regents made by the new governor, in the place of the unconfirmed appointments made by Ferguson and of some members who had resigned. The reconstituted board reinstated the faculty members who had been removed and passed the budget as prepared by the president of the university. The last "kick" from the defeated opposition took the form of an application for an injunction suit to restrain the payment of the university appropriations on the ground of unconstitutionality. This

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application was denied, and thus terminates an episode in American state university development which is of the greatest significance for all such institutions in every part of the country.

Massachusetts Constitutional Convention. For the first time in sixty-four years, Massachusetts is submitting its constitution to the scrutiny of a constitutional convention. The last body of this kind which met in this state was in 1853. All of the amendments which it submitted were rejected at the polls, but several of them were afterward proposed by the legislature and ratified by the people. Fortunately the constitution of 1780, which is now the oldest written instrument of government in force anywhere in the world, deals with general principles rather than with details, and the enormous social, political, and economic changes which have taken place since its adoption have not necessitated a corresponding change in its terms. There were a few questions of state policy, however, which it seemed could be best dealt with through the instrumentality of a constitutional convention; and Governor McCall's recommendation that such a body be summoned in 1917 was accepted by the legislature and adopted by the people.

The convention is a body of 320 members. It is much larger than similar bodies which have recently assembled in other states, as the Michigan convention of 96 members, the Ohio convention of 119 members, and the New York convention of 168 members. The Massachusetts convention is composed of sixteen delegates elected by the voters of the state at large, four delegates elected by each congressional district, and two hundred and forty delegates chosen by the legislative representative districts. The candidates were nominated and elected without party designations. The convention met on June 6 and chose ex-Governor John L. Bates to be its president.

Three months before the assembling of the convention the governor appointed a commission to compile information and data for the use of the constitutional convention. This commission, which consists of Professor William B. Munro of Harvard University, Roger Sherman Hoar, and the undersigned, prepared a series of bulletins dealing with those topics which seemed likely to be of most interest to the convention and also compiled such data as was called for from time to time by the delegates. Later, when the proposals before the convention began to take shape, the undersigned was appointed technical adviser to committees; and in that capacity has had much to do with the

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redrafting of proposed amendments before they were passed to be engrossed. These phases of the convention's work are entitled to considerable emphasis since it is believed that no other similar body which has ever assembled in this country has relied so much upon expert assistance.

The question which has been uppermost in the public mind since the holding of a convention first came forward for discussion is whether Massachusetts should adopt some form of initiative and referendum. A measure covering this subject which was reported to the convention occupied the center of the stage throughout the session, but was put aside from time to time to permit the consideration of other questions which it was deemed necessary to submit to the people at the November election. Three such measures were agreed upon by the convention and adopted by the people. Each of the fourteen counties returned a majority in favor of each amendment.

The first of these empowers the legislature to provide for voting by voters who are absent from home on election day. Absent voting is not unknown in America, but it has usually been thought of as a war measure enacted in order to prevent the disfranchisement of soldiers and sailors. Aside from this class, however, it has been estimated that more than 20,000 voters in Massachusetts—locomotive engineers, brakemen, traveling salesmen, chauffeurs, fishermen, and students—lose their votes every year through absence. These men, rather than the soldiers and sailors, were uppermost in the mind of the convention when it passed this amendment with practically no opposition. It was ratified by the people by a vote of 231,905 to 76,709.

Another amendment authorizes the legislature to make provision for public trading in the necessaries of life and for shelter in time of public exigency. This state has been visited several times in recent years by such calamities as the great fires at Chelsea and Salem; and the rule laid down in Lowell v. Boston (1873), 111 Mass. 454, seemed to make it impossible for the public to extend adequate relief. These events, but especially the present conditions of living which bear with particular hardship upon the poor, were responsible for a strong sentiment in favor of enlarging the power of the legislature in this direction. This amendment also received popular ratification by a vote of 261,119 to 51,826.

The third amendment adopted by the people in November was the "anti-aid amendment," which prohibits any appropriations of public money to institutions not under public control. From 1860 to

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the end of 1916 Massachusetts had appropriated nearly $19,000,000 for institutions of this kind. In recent years the attempts of various churches to obtain public funds for their schools and hospitals were dividing the people of the state into hostile groups and creating an atmosphere of suspicion and antagonism. Several times amendments have been introduced into the legislature forbidding appropriations for institutions under the control of any church; but the convention went further, and by a vote of 275 to 25 adopted as drastic a provision as possible. Except as provided in existing contracts, there is henceforth to be no appropriation of public money for any private institution. In the weeks preceding the election this amendment was sharply debated. The Catholic hierarchy, led by Cardinal O'Connell, strongly opposed its adoption, on the ground that it was an attack on the Catholic Church, and was unjust to that body in that it shut off the possibility of aid to the parochial schools. One of the most gratifying features of the vote on the amendment both in the convention and at the polls is the fact that it did not divide on religious lines. There are about one hundred Catholic delegates in the convention, only nine of whom voted against the amendment, while at the polls both priests and laity showed marked independence. The amendment was ratified by a vote of 206,329 to 130,357. By this action it is hoped that a most troublesome question has been permanently removed from political discussion.

For the purpose of comparison it may be well to state that the total vote for all candidates for governor at the November election was 387,927.

When these three amendments had been submitted to the people, the convention resumed its discussion of the initiative and referendum and finally adopted a measure which provides for the initiation by the people of both constitutional amendments and of laws and also for a compulsory referendum on enactments of the legislature. The measure is too long for detailed description, but its distinguishing features as compared with similar measures in other states may be said to be its exemptions. Neither the judiciary, nor judicial decisions, nor the anti-aid amendment, nor any of the great safeguards of liberty set forth in the bill of rights may be made the subject of an initiative petition. Having adopted this amendment by a vote of 163 to 125, and having provided that it should be submitted to the people at the state election of November, 1918, the convention adjourned until next June, at which time it will take up the considera-

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tion of various subjects as interesting as any which it has thus far discussed.

The convention is fortunate in the representative character of its delegates. Although it is a large body, it has not proved unwieldy, and its size has made it possible for every important economic and social element in the state to be represented. Three of its members have held the office of governor, one has been a justice of the supreme court, four have served as attorney-general, and many have held less prominent public positions. The labor element is not only represented, but several of the labor members are skillful and forcible speakers who can obtain a hearing from their colleagues. As a whole the convention of 1917–18 will not suffer in comparison with those held in Massachusetts in 1779–80, 1820 and 1853.

LAWRENCE B. EVANS.

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MUNICIPAL AFFAIRS

EDITED BY F. W. COKER[1]

New York City Election. In 1913 a Fusion committee of Republicans and independent Democrats nominated and secured the election of the recent New York City administration. Mr. Mitchel, the mayor, was elected by a large majority partly because of the death of one of his opponents, Mr. Gaynor, just before the election took place. It is probable that Mitchel would have been beaten but for this event. On November 6 last, the city voted to substitute for this Fusion administration one made up wholly of Democrats, and almost wholly of the nominees of Tammany Hall. Hylan, the Democratic candidate, received 297,000 votes; Mitchel, 149,000; Hillquit, Socialist, 142,000; and Bennett, organization Republican, 53,000. The ballot used was of the office group type, with party emblems. Twenty-two other offices, in addition to that of the mayor, were filled at the same election, and the voting for other offices seems to have been fairly consistent with the support of the candidates for the post of mayor. The form of the ballot does not seem to have had any appreciable effect on the result; and it is doubtful whether preferential voting in this case would have changed the result in a single case.

The election was a sad exhibition of unorganized government, of the failure on the part of political science to lead democracy in America into any system of selecting administrative officials through which efficiency is likely to be recognized and endorsed. The campaign was characterized by personal abuse and petty slanders; federal issues were given a prominence out of all proportion to their importance in the city government; money was spent lavishly and wastefully, if not corruptly; the yellow press displayed statements, the falsehood of which had been pointed out to the editors days in advance of the publication; permanent civil servants were in the campaign in support

[1] The editor of this department has been aided by notes supplied by Professors J. R. Douglas of California, F. E. Horack of Iowa, H. G. James of Texas, Wm. Anderson of Minnesota, S. G. Lowrie of Cincinnati, Dr. Horace Flack of Baltimore, and Mr. Mayo Fesler of Cleveland.

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of the candidates of both parties for the more important posts, apparently with no appreciation of the impropriety of their conduct. One paper carried a full page campaign advertisement signed by a "Conference Committee of the Allied Civil Service Employees."

There were no real issues in the campaign. One group of persons hoped that Mitchel's administration would be indorsed; another, and a much large number, were determined that it should not continue in office. The opposition was composed of a great variety of small groups, each of which was opposed to the administration for some specific reason. The administration had made many mistakes; but opposition was as sharp against its most conspicuous services as its most serious errors. Mr. Gladstone is reported to have said that there is nothing more popular than to advocate economy in general terms; and nothing more certain to cause the overthrow of a public official than an effort to apply economy to particular cases.

The administration rendered no more important service than its adoption of the pay-as-you-go policy in handling the city's debts. According to this policy each generation would pay for its own service, and not finance it through long term bonds. The public did not understand this policy, but it did find the tax rate rising, and complained loudly. To stimulate efficiency in the service, advisers and experts were called from outside the city. The practice was of course approved by the few close observers of public affairs. But the organizations with workers to reward dinned into the mind of the average voter that "foreign tax-eaters" were living on the public revenues.

When it was proposed to introduce into the schools a modification of the Gary system of education it was necessary to ask the teacher to serve longer hours. The public did not understand the issue, but the teachers were acutely conscious of the extended day. When an effort was made to strengthen the discipline in the police and fire departments through legislation taking from the members of these branches of the service the right to appeal to the courts in defense of their tenure of office, the organized civil service employees rose and defeated the effort, and the battle left a sting. When salaries were standardized and inequalities removed, those who received increases were satisfied and silent; those who were reduced were dissatisfied and vocal. When employees were discharged because no longer needed, their friends did not call attention to the resulting economy but made mention of the fact that Mr. Wirt had been added to the service as a mere adviser with an "enormous salary."

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When it was necessary to make a new contract with the New York Central Railroad, which runs through Riverside Park, in order to develop the west side water front, the plan met with more or less approval; but many of the people whose convenience would be temporarily upset or property interests affected by the changes proposed did not stop with a general protest. They organized a campaign to defeat the administration which they said was selling the city to the railroads. These and many other groups united behind the opposing candidate; while many champions of good government who happened not to have been alienated did not even take the trouble to go to the primaries.

Now those who constituted the opposition to Mitchel are not markedly peculiar people; they are average voters looking after their own interests, and organizing to protect them,—albeit, sometimes somewhat shortsightedly. Their conduct merely goes to strengthen the belief that the popular election of administrative officials through a direct vote is based on ignorance of popular psychology and will never be anything but a discredit to democratic institutions. It happens that some of the men who go into office as a result of this election are public servants of the highest type, but their service has been secured by accident. The most useful one among them was among those receiving the smallest vote. And the man whose election had least reason behind it was among those receiving the largest vote. Does it require argument to prove to thoughtful people that wise choice is not likely to be made in the midst of a revel of hysteria, sham, demagogy, falsehood and ignorance, which we call a direct popular election of administrative officers? Is choice likely to be wise when nine out of ten of those who make it know nothing of the candidates they support or oppose, and are equally ignorant of the work the candidates ask the privilege of doing? Is there any reason except the now discredited theory of the separation of administrative and legislative powers why Americans should continue to abuse their government with an implement used by no other first-class people in the world?

An offspring of the false belief that the administrative officials can be safely selected through direct popular election is the direct primary, which is a plan of electing the candidates within the party, and has proved to be a means by which the inner circle of the party can select the candidate without taking any of the responsibility for their choice. If this device needed anything more to discredit it than has already been noted by students, the election on November 6 seems to be

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sufficient. Except a small coterie in the Republican party which expected to upset the Fusion plans by its use, no one in the city really hoped that the primary would play any part in the nomination of the candidates for this election. A committee of representative citizens assembled unofficially and nominated the Fusion ticket. The Democratic organization nominated the Democratic ticket. It was expected that the primary would merely endorse these selections, and the Democratic primary met this expectation very promptly. The Republican primary endorsed all of the Fusion ticket except Mitchel, the candidate for mayor, and in his place nominated a comparatively unknown state senator.

The Fusion committee had been told by leading Republicans that all of their candidates would be nominated without doubt, and therefore made no primary fight. But the less important Republicans planned otherwise. It is true Mitchel on the face of the returns received a small majority of the votes, but there was talk of fraud and Mitchel demanded a recount. The recount gave his opponent a majority and revealed many votes changed in Mitchel's favor. No responsible person suspects the Fusion candidates of taking part in the fraud, and its occurrence is explained in many complicated ways. But the upshot of the matter was that Mr. Hughes, Mr. Roosevelt and other leading Republicans and champions of the direct primary at once repudiated it, thus giving the opposition ground on which to say that the fraud in the primary having failed in its object, the supporters of the administration were willing to disown their own device, to ignore the will of the people expressed through it, and to use any means whatever in order to secure the election of the "minion of special privilege, the candidate of the New York Central and the Rockefeller interests." The direct primary, however, even as here illustrated, is certainly no more unwise than the method of election to which it is annexed.

The incoming administration, like that of Mr. Mitchel, is in favor of municipal ownership. An issue grew out of the fact that the outgoing administration was able to apply the policy no more rapidly than industrial and economic conditions seemed to them to justify. The incoming administration promises many more school buildings, but they also promise to reduce the tax rate; and to keep both of these promises may be found impossible. The main attack on the Mitchel administration, however, was directly against its "inefficiency" and "lack of democracy;" and the new administration promises to be

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more efficient and more democratic. Therefore a judgment of its success will depend largely on a definition of terms.

The opponents of the new administration fear particularly the effect of its policies on the schools. By a recent change in the charter of the city, the new mayor appoints a new small board of education, which by virtue of long terms will control the schools for about seven years. This means almost unchecked control of about $50,000,000 annually, of 20,000 teachers, and of the educational standards of 6,000,000 people. There is also some fear that the present high morale of the police force will not be preserved. There is no great concern about the financial status of the city, for the debt limit is about reached, property is assessed at its full value, and the new administration has promised to reduce the tax rate. Whatever the outcome, half the voters in the most important city in the world decided that they wanted a change. Whether they will find the fire any cooler than the frying pan is the problem which the future alone can determine. EDGAR DAWSON.

Other City Elections. In the Boston mayoralty election on December 18, the reform element won, ex-Congressman Andrew J. Peters, formerly assistant secretary of the treasury, being elected mayor by a plurality of about 10,000 voters over Mayor Curley, his nearest opponent in a bitter three-cornered fight. The victory of Mr. Peters, regarded as a representative of the Back Bay and business elements of the city, was due in large measure to the strong run made by Congressman James A. Gallivan, who by his vigorous "anti-gang" campaign against Mayor Curley drew from the latter many votes which doubtless could not have been attracted to any candidate regarded as "high-brow;" he ran only 10,000 votes behind Mayor Curley. Ex-Mayor Fitzgerald also took active part in the campaign, as speaker, against Mr. Curley. Peters, Curley, and Gallivan are Democrats, the Boston ballot being nonpartisan. There were two other candidates in the field—Congressman Tague, also a Democrat, who received slightly over 1500 votes, and the Socialist candidate who received only 345 votes.

The city of San Francisco held its first election under the preferential voting plan on November 5, 1917, pursuant to an amendment to the city charter adopted November 7, 1916. The provisions of this amendment are generally in accordance with the orthodox preferential plan. One important variation is the requirement that all ballots

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must be counted in the central office of the registrar of voters by trained assistants selected on a merit system.

Due to the exceptionally long ballot in San Francisco, and also to the fact that a combination of city and county officials are elected at one time, the number of places to be filled is large. The vote for the board of supervisors, the legislative body of the city and county, sufficiently indicates, however, the character of the results in the recent election. There were 49 candidates for the nine places to be filled. Only one of these was elected on the count of first choices, and only one other secured the necessary majority when second choices were added to the first. In all other cases it was necessary to add both second and third choices before the result could be determined. Due to the fact that the expression of second and third choices in every case was insignificant, as compared with the total number of first choices received by each candidate, none, other than the two mentioned, received the necessary majority even with the combination of all three choices. Seven, therefore, were selected on a basis of plurality of votes, and no shifting in plurality took place by the addition of the second and third choices in the case of any of the candidates for the board.

The outstanding feature of the San Francisco election is, therefore, the failure of the plan to secure complete expression of choice and, at the same time, majority election. The total number of second choices for no candidate exceeded 14 per cent of his total first choices, and, in the case of 21 candidates, it did not exceed 3 per cent; the total number of third choices for no candidate exceeded 7.8 per cent, and, in the case of 26 candidates, it was less than 1 per cent. Whether this was due to lack of interest or to ignorance of the new scheme on the part of the voters, or whether it was the result of carefully planned "plumping" campaigns on the part of any one or all of the factions participating in the election, cannot, of course, be determined definitely. One explanation offered is that, due to the sharp division of opinion in San Francisco at the present time in regard to the interests of capital and labor, each of which was represented by a ticket, most of the voters really had no second, much less a third, choice to express.

Under the new system of counting ballots a fair and efficient count was secured. The preferential system did not prevent the election of ex-Mayor Eugene E. Schmitz as fifth aggregate choice of the voters.

The Dayton, Ohio, election attracted interest not only because of the unsuccessful effort to abolish the city-manager form, but also because

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of the vigorous fight made by Socialists. The three Socialist candidates ran ahead of the three "citizen" candidates in the August primary, but the latter were elected over the former in the November election.

A woman has recently been elected mayor of Marble Falls, Texas; this is probably the first instance of a woman mayor in Texas.

Charter Changes. At the November election in Baltimore, a charter commission was elected to revise the city charter, under the "home-rule" amendment to the constitution. The vote for a commission carried by about 30,000 to 16,000. The commission has six months in which to prepare a charter which must be then advertised and submitted to the voters at the November election this year.

A new charter was adopted in Cincinnati at the November election. The charter makes relatively slight changes in the system under which the city has been operating under the state municipal code: the treasurer and solicitor, elective under the code, are made appointive, the terms of mayor and council are extended from two to four years, and a city planning commission with extensive powers is created. The charter otherwise incorporates the municipal code with its detailed enumeration of powers of the city government. However, by charter amendments the people of the city are now in position to avail themselves of the general powers of local government conferred by the "home-rule" article of the constitution upon cities adopting charters for themselves.

The prevailing tendency in recent charter changes is clearly in the direction of the city-manager form. In Texas, where cities have been exceptionally active under home-rule powers, ten cities are operating under one or another type of that plan. Among important cities elsewhere which have recently adopted city-manager charters may be mentioned Alameda and Santa Barbara, Cal., Albuquerque, N. M., and Petersburg, Va. The legislatures of Idaho and Montana have recently passed laws authorizing cities of their respective states to adopt city-manager charters. In the November election the attempt to abolish the city-manager form in Dayton was defeated.

In Columbus, Ohio, by charter amendment adopted in August, the suffrage in city elections has been extended to women under the same terms as men; and there was a relatively large participation by the new women voters in the November elections in that city.

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An amendment to the Cleveland charter was adopted in November, establishing the eight-hour day for all positions in the classified service.

Municipal Activities. Municipal ownership has made substantial progress in Texas during 1917. Among newer municipal undertakings which were initiated during the year are municipal slaughter-houses, municipal farms and municipal piers.

A recent statute of Iowa authorizes cities operating under the commission form and having a population of 50,000 or over to establish, in connection with parks, "swimming pools, bathing beaches, bath houses, ice rinks, dance pavilions, shelterhouses, wading pools and river walls and to pave, macadamize or otherwise improve the roadways, drives, avenues and walks in and through such parks." The cities are authorized to levy a half-mill tax for the recreative activities and another half-mill for the paving.

Another important Iowa statute, applying to cities of first class rank in population, provides that, upon the petition of 60 per cent of the resident owners of the real estate in the district sought to be affected, the council is required to designate and establish, by appropriate proceedings, restricted residence districts. Under the provisions of this act, reasonable rules and regulations may be made concerning the erection, reconstruction, altering, or repairing of all kinds of buildings within the district, as well as the use and occupancy of such buildings. The council may also provide by ordinance that no building or other structure—except residences, school houses, churches, and other similar structures—can be erected, altered, repaired, or occupied without a permit from the city council. Any building erected or repaired in violation of such an ordinance is declared to be a nuisance, and the council is authorized to provide for its abatement.

The successful passage recently, by a vote of 6214 against 4667, of an initiated city ordinance terminating the right of saloons to exist in San Jose, Cal., has created a revenue problem for City-manager Thomas H. Reed (formerly professor of political science in the University of California). The estimated revenues from saloon licenses had been placed in the budget at $60,000. This is entirely cut off. However, the ordinance has left 16 restaurants and 17 wholesale places undisturbed in their privilege of dispensing liquors. The fees from the licenses of these places, as fixed in the new ordinance, are estimated to produce about $25,000, making a net loss to the city of

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$35,000. It is planned partly to make up for this by adding $5,000 from new business licenses. The remainder will be cared for by a cash balance of about $25,000, which has accumulated during the last year and a half through the economy of the city-manager administration.

Since the beginning of 1917, Minneapolis has had a Socialist mayor—Mayor Van Lear—who was elected on a nonpartisan ticket. Anticipations of a vigorous and progressive administration, particularly in the enforcement of liquor and vice laws and in handling the street-railway-franchise question, have not been fully realized. Two important obstacles to a successful administration appeared: (1) the mayor has from the first lacked support by the council, which has extensive control over the administration outside of the police department, and of which only four of the twenty-six members are Socialists; (2) the support of public opinion was greatly weakened by the mayor's pacifism and especially by his speeches for Mr. Hillquit in the New York mayoralty campaign.

The street-railway question in Minneapolis, an important issue in the 1916 campaign, has not yet come to a head. The franchise does not expire until 1923, but the question of its extension has been before the people for several years. In 1915 the state legislature authorized the city to grant a new franchise. Among other things this law provides that the company receiving the franchise shall be a domestic corporation, that the franchise shall be granted for not over thirty years in the first instance, and that the city shall retain the right of purchase at every five or ten year period. If any clauses are inserted with reference to purchase price or the division of surplus earnings, they are to be based upon a physical valuation of the property. This valuation "may include a fair going-concern value but shall not include any franchise or good-will value." The franchise shall not take effect until passed by the city council, accepted by the company, and ratified by vote of the people. The ground for a settlement along these lines is being carefully prepared. The central franchise committee of the federated improvement leagues has been long at work under the leadership of Mr. Stiles P. Jones, who played an important part in the gas franchise settlement some years ago. In coöperation with the city attorney, he is preparing a cost of service franchise, with profit-sharing features. The question of valuation is presenting the greatest difficulty. The company has valued its plant at $35,323,376. The city engineer has put the figure at $25,914,308. Another engineer specially

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employed by the city council reported a valuation of $24,300,000. Recently the mayor has brought in an appraiser from Milwaukee who has fixed the value at a still lower sum. In the meantime the mayor has vetoed a local franchise for several new lines of track. No extensions of importance are being made. The street car employees have been organized and have staged a strike which evoked the interference of the state public safety commission, and which is not, at time of writing, fully settled. Numerous jitney busses of ever larger and better types are materially reducing the street railway's net earnings.

Detroit Conference. The twenty-fifth National Conference for Good Government, held at Detroit, Mich., from November 19 to 23, 1917, embraced a series of meetings and conferences of the National Municipal League, the City Managers' Association, governmental research agencies, civic secretaries and secretaries of state municipal leagues.

At the sessions of the City Managers' Association special attention was given to practical problems of municipal administration.

The National Municipal League gave attention to food supply and other war problems, nonpartisan city government, the consolidation of city and county government, state budget methods and training for the public service.

Provision was made for organizing on a continuing basis a conference on governmental research, as a central agency for coördinating and correlating the work of the various bureaus of municipal and government research in the United States. Mr. Otto Kirchner of Detroit has been selected as president of this conference, and Mr. Levy E. Snyder of Rochester as secretary and treasurer; and an executive committee has been formed to work out definite plans of action.

The secretaries of state municipal leagues also formed an organization, with Homer Talbot of the Kansas League as chairman.

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BOOK REVIEWS

EDITED BY W. B. MUNRO

Harvard University

The Philippines. By CHARLES B. ELLIOTT. Two volumes, I, *To the End of the Military Régime;* II, *To the End of the Commission Government.* (Indianapolis: Bobbs-Merrill Company. 1916–1917. Pp. 541, 541.)

Judge Elliott has rendered a service to the American public and to the Philippine people by presenting the first adequate picture of the Philippines after nearly twenty years of American rule. The author's period of activity and residence in the islands, as judge of the supreme court (1909–1910) and as secretary of commerce and police (1910–1913), has given him excellent preparation for a study of the policies and accomplishments of our rule in the Philippines. The first volume is prefaced by a terse and appropriate introduction by Hon. Elihu Root in which the fact is emphasized that all discussion of the morals of our occupation of the Philippines is academic; we are confronted with a situation and a problem the solution of which is impossible without intelligence and information on the part of the American people. That is what Judge Elliott aims to give.

Approximately one half of the first volume is devoted to pre-American conditions to serve as a background for an understanding of the present. An effort is made to fit our experiment in the Philippines into the general field of colonization by comparing it with efforts made along the same lines by the Dutch, Germans and British. Our avowed intention there is to fit an uncivilized and tropical people for self-government, and to govern the colony in accordance with its best interests and not primarily our own. This was a departure from accepted theories, inviting criticism and ridicule, but Judge Elliott feels that we have succeeded, through a happy combination of "England's sense of justice" and our own natural "political magnanimity." The chapters on geologic, climatic and racial conditions are instructive and readable. While the general sense of the historical sections of this first volume may be regarded as adequate, since they show the results so

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well of three hundred years of Spanish training, the author falls into the rut formed by the unappreciative and uninstructed British and American "snap-judgment" historians of Spanish colonization by terming this "a period of stagnation." The difference between the Christian Filipino in religion, morals and civilization, and his Malay brother to the south is due only to Spanish influence exerted through these "centuries of stagnation." The author himself points out that the Filipinos are really Latin in their civilization and modes of thought, and that with our twenty years of vigorous and efficient rule we have only scratched the surface.

A large number of inaccuracies occur in the author's treatment of the Spanish period. The Council of the Indies (not Indias) was founded in 1511 and not in 1514. Governors of the Philippines were not always compelled to remain for *residencia*. The *Obras Pias* were not founded by "the contribution of an enterprising governor-general (Arandía, 1759) who had managed, out of a small salary during a five-year term of office, to save a quarter of a million pesos," which he turned over to the priests. The first *Obra Pia*, that of the Santa Miseracordia, was brought to the Philippines in 1596, and another, San Juan de Díos, was established there twenty-one years later. Again, our author credits Governor Enrile with the foundation of the Philippine Economic Society in about 1830, when, as a matter of fact, Enrile merely revived the association, which had been established by Governor Basco y Vargas in 1780. It is regrettable that the author placed reliance in the historical portion of his book on the notoriously inaccurate Foreman, who knew no history.

In the remaining part of this volume the author deals adequately with the historical events surrounding the American conquest, the Philippine insurrection and the establishment of American rule, adding nothing to the accounts already published by Leroy and Worcester. Mr. Bryan and the so-called anti-imperialist forces of 1900 are charged with responsibility for the undue prolongation of the Philippine-American war. Their encouragement is said to have led Filipino politicians and "generals" to form an entirely wrong conception of their own importance and of the attitude of the people of the United States on the Philippine question. This leads to the comment that the American people have never had any attitude on this subject, other than that of almost universal ignorance, which is not appropriate for the citizens of a democracy, although it be also mistress of an empire.

The second volume brings the history of the Philippines down to

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1915. Here our author is in his own field, describing as he does the events in which he himself has participated so ably. We are treated to a clear-cut exposition and description of the present government of the Philippines, the religious, insular, provincial and municipal organizations and their interrelations; questions of finance, trade, agriculture, labor, are discussed; and we are given some conception of the extensive work of our government in the direction of public works, harbor improvements, commerce, education, sanitation, and the reclamation of the wild tribes. This work was in full progress in 1914, when some political changes were effected on the basis of national issues. Judge Elliott feels that these changes have been entirely inconsistent with our original purposes in the Philippines, which presuppose a sufficient length of time for the education and uplift of the Filipino people. These changes have interrupted and stayed the work, which in reality is only initiated and will require time for full fruition. What we need is a settled policy with regard to the Philippines. They should be put beyond the reach of politics. The Filipino people are not yet ready for independence, political, moral or economic; and the measures enacted during the past few years have not been the result of proper reflection, knowledge, understanding or sympathy with our great aim in the archipelago. Notwithstanding the sharply critical spirit of this volume, as a piece of informative literature, palpitating with earnestness and abounding in data, it is the best thing yet written on our colonial activities in the Far East. It is more than that; it is a book with a mission.

It is unfortunate that the author has carelessly or unwittingly permitted so many errors and inconsistencies in the use of Spanish names and words to creep into the text. It would almost seem that he deliberately tried to waive all correct usage in Spanish. It would be wearisome to mention all of the 62 mistakes of this kind counted in the first volume, but a few of the most glaring follow in the order of their occurrence: *encomendadors* (37) for *encomenderos*, which word is correctly used subsequently; *politicos* for *políticos* (60) indicating that our author makes no use of accents in words requiring them; Cotabato is spelled Cotabatu (66) and Cottabatu (468) in volume I and Cotabato in volume II (443); Mariveles is spelled Maravales (71) and Marivales (162); Santo Tomás is Santa Tomás (72), thereby making St. Thomas a female saint; Agusan is Aguson (91); Martin de Rada, properly spelled on page 102 becomes Martin de Roda two pages farther on. El Cano, the successor of Magellan, is designated as El Caño (145);

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while Emelio Aguinaldo is given the Christian name of his female cousin Emelia (203). These errors are typical in an added sense of showing how studiously Americans avoid a correct knowledge of the language of the colony or foreign country in which they reside. Herein is one of our great weaknesses.

CHARLES H. CUNNINGHAM.

University of Texas.

The Danish West Indies. By WALDEMAR WESTERGAARD. (New York: The Macmillan Company. 1917. Pp. xxiv, 359.)

If the importance of the Danish West Indies were measured by their few square miles and some thirty thousand inhabitants, to give an entire volume, or as the author proposes, three volumes, to their history would be to exaggerate their importance. Mr. Westergaard feels that his study is justified because it gives a picture in miniature which portrays influences determining colonial development of importance throughout the Caribbean and beyond.

Except for one chapter, Mr. Westergaard devotes his attention to the history of the eighty-four years during which the islands were managed by the Danish West India Company. The sources used are found chiefly in the Bancroft collection and in the Danish royal archives which have been almost entirely neglected by scholars. The author has made careful and effective use of his material. Since the community examined was so minute he has been able to picture its development in great detail.

The life of the islands has centered about three lines of activity: trade and plantation enterprises, which the author points out have too often been treated as if they were synonymous, and the slave trade. The story presents many elements familiar to the student of the history of colonization and particularly of colonization in the American tropics. The Danish experience with ex-criminal colonists, indentured servants, absentee landlords, African slaves, pirates and contraband trade, all claim attention. The trials of the company and its stockholders, due to corrupt officials, hurricanes, droughts, and negro insurrections; the disputes of the planters with the authorities over direct taxes and customs; unfortunate experiments at coöperation with a company of Brandenburgers; the mutterings of the disgruntled settlers because of their desire for a share in their own government: all are interestingly discussed. Among the most valuable chapters

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are those dealing with the economic life of the colony. The experiments with indigo and cotton, the export of valuable woods, the rise of the sugar-cane industry which, especially when war conditions made the prices for the staple rise, gave the islands their boom periods, all furnish interesting contrasts and parallels for students of the history of other West Indian colonies.

Taken as a whole, the story is a sorry one of hardships, disappointments and defeats, especially before the purchase of St. Croix in 1733, at which time the population of white adults numbered only 482, little more than twice as many as were in the colony a generation before. With the acquisition of the agriculturally richer St. Croix and the expansion of the sugar trade the picture brightens; but with greater prosperity the usual abuses of company rule became even less tolerable, and that system of control came to an end in 1754.

The supplemental chapter gives a bird's-eye view of the subsequent history of the islands which is the most interesting part of the book for the general reader. An excellent series of appendices, chiefly statistical, shows the economic and social conditions existing in the colony at various periods.

CHESTER LLOYD JONES.

University of Wisconsin.

Chatham's Colonial Policy. A Study in the Fiscal and Economic Implications of the Colonial Policy of the Elder Pitt. By KATE HOTBLACK, J. E. Cairnes Scholar of Girton College. (London and New York: E. P. Dutton and Company. 1917. Pp. xv, 219.)

That Chatham directed his foreign and colonial policy with an eye to trade, is a commonplace; but Miss Hotblack has ventured a documenting of the subject which was well worth undertaking. Her book is built up from Chatham's correspondence, his speeches, and his departmental letters in the Record Office; and it makes out a clear case for regarding his conduct in the light of a supreme concern for mercantile interests.

An obvious comment upon the work is, that being confined for the most part to material of an official character, it tends to reflect too exclusively an official view. Chatham's judgments become detached from their origin and place in contemporary political controversy, and stand out unduly magnified and exalted above the popular trade argu-

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ments of the day. It is really not sufficient, and it serves only the most limited purpose, to contrive, as Miss Hotblack does, to make Chatham explain his conduct in his own words. It would be better, in addition, to attempt to value his views by resetting them in the arena of public debate from which they have been isolated. Had Miss Hotblack only cared to go further afield and to master, for example, the collections of pamphlets upon the Seven Years War alone, her study of Pitt's trading policy would have appeared less contracted. A few, even, of the eighty-odd pamphlets on the Canada-Guadaloupe controversy would have shown that in such a dispute the routine information of a government department does not compare for interest with the lively solicitude given the question in unofficial discussion. Also, more specifically, the same pamphlets would have explained the actual issue in the choice between Guadaloupe and Canada—an alternative which Miss Hotblack, relying too closely perhaps upon departmental letters, seems strangely to misinterpret; partly, it is to be feared, from a rather insecure understanding of the geography and economic exploitation of Canada before the cession. However, within the self-imposed limitations of this brief piece of research Miss Hotblack has sought out some very telling illustrative material, which elucidates Chatham's mercantilism, and throws the subject into clear outline.

C. E. FRYER.

McGill University, Montreal.

The Origins of the Triple Alliance. By ARCHIBALD CARY COOLIDGE. (New York: Charles Scribner's Sons. 1917. Pp. vi, 236.)

Although in Russia the Bolsheviki appear ready to open to all mankind the diplomatic *arcana* of the old régime, it will probably be many a day before Prussia, Austria, and Italy will allow historians free access to the secret records of their diplomatic history between 1866 and 1882. Until that day comes the historian must be content to catch at the clues in inspired newspaper articles, in hints, discreet and indiscreet, which statesmen drop in their reminiscences for the enlightenment or befogging of posterity, and in stories current in the legations and chancelleries of Europe. Professor Coolidge has caught with unusual success at all these clues available and has weighed their value with great acumen and common sense. He has wisely forborne to

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burden the reader with long notes on controversial points, but he has given the clearest, simplest, and most convincing narrative in English, of the way in which Bismarck sought to make secure from without the new German Empire which he had founded.

Bismarck's chief source of anxiety immediately after the Franco-Prussian War was the possibility of French schemes of *revanche*. To protect Germany from this he skillfully pursued a tortuous policy which had as its successful purpose the diplomatic isolation of the new French Republic. In this he was aided by the so-called League of the Three Emperors—a combination of the same three great powers which had brought about the First Partition of Poland just one hundred years earlier. Later, in 1879, owing to justifiable Russian resentment over the outcome of the Congress of Berlin, Bismarck felt it necessary to insure the German Empire on her Eastern frontier also—hence the Dual Alliance with Austria. It is worth noting that when he went to Vienna in September, 1879, to negotiate with Andrássy, he pretended to wish that the treaty of alliance between the two Germanic empires should be a general treaty and should be made a part of the constitution of both states. Andrássy, however, refused both points: a general treaty might antagonize France, with whom Austria had no quarrel; and the inclusion of the treaty as a constitutional document would recall in a measure the German Confederation which had been ruptured by the War of 1866. So Bismarck yielded, and the Dual Alliance, as signed, looked primarily eastward: "Should one of the two Empires be attacked by Russia, the High Contracting Parties are bound to come to the assistance one of the other with the whole war strength of their Empires" (Art. I). If one were attacked by another power—by which Bismarck of course meant France—the other contracting party bound itself "to observe at least a benevolent neutral attitude" (Art. II). In the Triple Alliance three years later there appears this same ominous phrase, "benevolent neutrality"—itself a contradiction in terms—the full significance of which was not apparent until August 2, 1914, when Germany demanded that Belgium maintain an attitude of "friendly neutrality" toward herself.

Aside from its clearness and interest, the book is noteworthy for its considerable attention to Russian and Balkan influences, for its evaluation of the personal influence of rulers and statesmen, and for its just estimate of Bismarck.

SIDNEY B. FAY.

Smith College.

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The Statesmanship of Wordsworth. By A. V. DICEY. (Oxford: The Clarendon Press. 1917. Pp. 134.)

England is fighting against German imperialism for the same reasons that she fought against French imperialism under Napoleon a hundred years ago. She may derive strength of purpose and confidence from the remembrance of the motives which urged her on and sustained her determination in former times. This was the originating idea of Professor Dicey's book. Wordsworth deserves to be known, not only as a poet, but as a thinker, and especially in that sphere of intellectual activity, so closely connected with the leading motive of his poetry, namely, the application of moral principles to the political and social laws which regulate the relations of citizens within the state, and to the international laws which ought to regulate the relations of nations in the world.

The first part of Professor Dicey's book deals with the influence of the French Revolution on the mind of the poet. Here the material is well known and Professor Dicey is content with stating again, with occasional illuminating remarks, what the historians of literature may consider as trite, but what has not yet reached the general public. On this subject one regrets that Professor Dicey quotes only Harper's recent biography of Wordsworth and does not mention Légouis's *Jeunesse de Wordsworth,* or Cestre's *La Révolution française et les poètes anglais.*

The second and more original part of the book treats of the "doctrine of nationality" as anticipated by Wordsworth in the *Sonnets Dedicated to Liberty* and in his prose work, *The Convention of Cintra.* It is here that one may truly speak of the "statesmanship" of the poet. Through the exercise of his moral and patriotic intuition, Wordsworth understood that one of the most valuable lessons of the French Revolution ought to be the principle of the independence of nations as moral and political units—a principle claimed by the French in 1792 and then violated by them under Napoleon. The vindication of this principle, without which there could be no lasting freedom for any country in Europe, was worth the most strenuous exertions and the most costly sacrifices on the part of England. England then led the crusade for civilization and for the future progress of the world. Today she has the same reason to fight to the uttermost against German imperialism. Wordsworth deserves to be one of her guides. While setting forth the poet's prophetic insight into a great truth of interna-

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tional law, Professor Dicey brings in his own penetrating judgments, and here his eminence as a historian and a jurist is masterfully exemplified. He solves definitely, in favor of Wordsworth's liberalism, the controverted problem concerning the poet's political opinions in the the latter part of his life.

C. CESTRE.

University of Bordeaux.

Political Ideals. By BERTRAND RUSSELL. (New York: The Century Company. 1917. Pp. 172.)

This little volume contains five brief essays embodying the author's views as to the essential wrongs of our present political and economic system and as to the ideals which should determine the gradual processes of reconstruction. His initial principle is, as in his *Why Men Fight*, the discrimination between the two sorts of goods and the two corresponding impulses: (1) goods in regard to which individual possession is possible and where what one man acquires is obtained usually at the expense of some other man—in general material possessions; and (2) goods which all can share alike, and where acquisition and attainment by one person extend rather than diminish the possibility of attainment and enjoyment of such goods by others—in general mental and spiritual goods. With respect to the two corresponding impulses—the possessive and the creative, respectively—social progress involves disparagement of the former and cultivation of the latter.

Generally speaking, in matters concerning the economic and possessive life, more control over the individual is necessary than at present is imposed; here unrestricted liberty involves anarchy or injustice. In relation to mental interests state action should aim only at the prevention of private tyranny and the liberation of creative impulses. The evils of the present economic and political order are: first, that under it too much attention is given to the immediate fostering of total production; second, that the capitalistic system places the worker under the control of an economic organization in the management of which he has no voice; and, thirdly, that too little attention is given to affording such men free play for their creative impulses by liberating them from the material cares in which they are engrossed under the capitalistic system.

The remedy is to be sought, not by destroying large economic organizations, but by rendering their control democratic. And this end

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can be obtained not through a system of state socialism, but through a system of self-government for each economic group. State socialism does not promote economic freedom and democracy. Under it men employed in a given industry have no more voice in the management of that industry than they have under private ownership; the administration of the industry is still in the hands of officials whose bias and associations separate them from the actual workers. With respect to any given state-owned industry the officials are under the control, if any, of an electorate most of whom have no direct or vital interest in the particular questions that arise affecting that industry. This evil is avoided by a system under which the workers in any one industry are combined into an autonomous unit free from control as to internal affairs—hours of labor, distribution of earnings, questions of business management. But not as to "external" affairs: the state must regulate outside relations of the group; it must therefore fix the price at which products are sold, for prices directly concern the rest of the community. Thus this system, which is guild socialism, is to be distinguished not only from state socialism, but also from syndicalism; the latter would leave each economic group externally as well as internally independent.

Brief suggestions are made that this system of internally autonomous groups should be applied to other than economic interests; there should be a general extension of devolution and federal government, as applied to racial, religious, geographical, and other groups within the state. Finally the same principle should be applied internationally: independence for each state in its internal affairs, but legal restraint, rather than separate—and therefore prejudiced—force, in external affairs. States must be willing to part with absolute sovereignty and leave control, legislative as well as judicial, of international affairs to an international authority which should be possessed of the only army and navy in existence. "War is only the final flower of an evil tree." Possession—the passion to have and to hold—is the ultimate source of war and the foundation of all the ills from which the political world is suffering.

The ideals of the essays are set forth with the writer's characteristic fluency and vividness of expression, and with useful incidental notions of which no suggestion can here be given. No weighing of difficulties or indication of specific methods is attempted by the author.

F. W. Coker.

Yale University.

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The Life of John Caldwell Calhoun. By WILLIAM M. MEIGS. Two volumes. (New York: The Neale Publishing Company. 1917. Pp. 456, 478.)

Mr. Meigs's book may be accepted as the long-desired complete and impartial life of the Great Nullifier. Evidently it rests on an industrious examination of the available sources and is constructed, on the whole, with an admirable sense of the relations of the various phases of Calhoun's career to the whole story of his long and important life. The first volume carries him nearly to the end of the nullification controversy, and most of the second is devoted to that part of his life in which Calhoun appeared as the dominating leader of the South in asserting its claims against the North. The second volume is, perhaps, the more interesting of the two; for it shows its subject engaged in a cause dear to his heart, fighting his way into undisputed mental leadership, and uttering views about which he cannot be supposed to have taken grounds which did not correspond to his convictions.

Although the author does not defend all of Calhoun's positions and deeds, he never criticizes them with acrimony, and he insists that we shall remember that the current of the time was running strongly against South Carolina. For example, we are reminded that Calhoun did not shift his position in politics in 1825 merely because he wished to become president, but because he had come to feel that the interests of the South were jeopardized by the spirit of the majority in Congress and that it was his duty to defend his own section. This conviction was not formed in the spirit of knight-errantry, but on the ground that a politician must stand by his people, who trust him. On such a basis the course of Calhoun is as creditable as that of any of his opponents. The reader of the book must lay it down with the feeling that it deals with a sad but splendid man, who fought admirably against adverse fate and who deserves our sympathy and esteem.

The breadth of treatment, which is generally noticeable throughout the book, is illustrated in the presentation of the results of nullification (II, pp. 36–39). For South Carolina it was a triumph in that it reduced the tariff to a low level at a time when the tide had been running strongly in the other direction; but the victory was won by the merest scratch, and when it was won the state was at the end of her wits for a means of resisting the blows which Jackson seemed about to inflict. For the cause of union it was also a triumph, but the radical toning down of the Force Bill by Congress, immediately after it

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was passed, took away some of the renown of victory. For Calhoun it was a misfortune; because after that his reputation always carried the stain of disloyalty to the Union, which was a bar to his future political hopes. The moral effects were important; for while the South had been forced to fix her eyes more steadily than ever before on her sectional interest, the country at large had seen the nullifiers suspended for a moment over a dreadful chasm and every one knew that they were lucky to get their feet on *terra firma* again. Their experience showed the South, and Calhoun himself, the weakness of the theory that a state could resist the execution of federal law and remain in the Union; and in all the later years of the great controversy that theory was not again brought into service. Special commendation must be given, also, to the discussion of the economic causes behind nullification (II, pp. 40–45).

The reviewer has encountered some proof errors, and he cannot but regret that the publishers did not use better paper and more attractive type in manufacturing a book which deserves such steady use by students of American history. The summaries at the beginning of the chapters are especially unimpressive in type and spacing.

JOHN SPENCER BASSETT.

Smith College.

The Readjuster Movement in Virginia. By CHARLES C. PEARSON, Ph.D. (New Haven: Yale University Press. 1917. Pp. viii, 191.)

Dr. Pearson has made an informing study of a transitional period in Virginia history extending roughly from the close of the Civil War to the election of Grover Cleveland as President of the United States. The central fact in the Readjuster Movement was the means of paying the public debt of $38,000,000, as reported by the governor in his message of December 4, 1865. The state's assets in railroads and canals had been virtually destroyed by the war, the taxing power of the people reduced fully two-thirds; and one-third of the territory had been actually wrested away in the formation of the new state of West Virginia. Under these cruel circumstances, the readjuster principle was thrust forward—"that the state's creditors should be compelled to share in the general loss occasioned by war and reconstruction." The leaders were mainly self-made men of the middle class, marked by energy and political shrewdness. Perhaps the two most

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picturesque were "Parson" Massey, and General Mahone, who bossed rather than guided.

While the cause of the Readjuster Movement was primarily fiscal, the effects were largely social, economic and political. It marked the advent of discussion after the paralysis of the Civil War, and discussion invariably sets free the potential energy of a democracy. "For Conservatism was not only a political party, it was also a social code and a state of mind which bound the whites to united and temperate action." As Dr. Pearson clearly points out, "the Radicalism of reconstruction days and the Readjuster Movement a decade later were both democratic protests against the domination of Conservatism."

The period of Readjuster supremacy lasted for four years, 1879–1883. One-third of the debt was set aside for West Virginia. The total remaining debt for old Virginia was $21,035,377, which was refunded by the Riddleberger bonds dated July 1, 1882, and bearing 3 per cent interest. As a result the tax rate was reduced from 50 to 40 cents, as also liquor licenses, while "public education received such generous treatment that some feared the ruin of denominational schools." Many other measures tended to subserve the interest of the masses and to break the power of wealth and established privilege. The whipping-post was abolished.

In 1882 it became apparent that Mahone's chief object was to "bind the state and hand her over to the Republicans," while the single aim of the Conservatives was to "redeem the state." With Mahone in the United States senate, "the solid South" was unmistakably broken. "This result was attained by a combination of boss, patronage, and negroes." General Fitzhugh Lee "redeemed" the state in 1885, while Daniel and Barbour soon superseded Mahone and Riddleberger in the senate.

Dr. Pearson's style is forceful, and his treatment is clear and interpretative of a critical period in Virginia history.

S. C. MITCHELL.

Delaware College.

Party Organization and Machinery in Michigan since 1890. By A. C. MILLSPAUGH. (Johns Hopkins University Studies in Historical and Political Science. Series XXXV, No. 3. Pp. 189.)

Until very recently the field of Michigan political history has been little cultivated. Indeed, until the publication in 1912 of Miss Har-

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riette M. Dilla's *The Politics of Michigan, 1865–1878*, nothing had been produced so good as Judge James V. Campbell's *Outlines of the Political History of Michigan* (1876), which is in fact as well as in title a mere sketch of the general history of the state. This dearth is reflected in the paucity of references to monographic literature in the present volume.

Mr. Millspaugh, as a native of Michigan, has done a good service in calling attention to Michigan, and the central states in general, as a field for doctoral work in politics and government.

"My study," the author says, "is an attempt to contribute to the satisfying of what is believed to be a real need in applied political science. It is confined to one state, and states differ in their internal conditions and in their legislative experimentation; but I believe there is nothing so peculiar in the conditions and legislation of Michigan that its experience may not be accepted as fairly typical of the experience of many other states."

In the introduction he reviews briefly the social, economic, political and religious conditions in Michigan as a general background affecting the form and workings of party organizations, and then takes up in succession party committees, primaries and conventions (1890–1904), direct primary legislation, the committee system under direct primaries, direct nominations in operation, and campaign management and finance. The author concludes that "although the great national party organizations continue quadrennially to persist and to function with apparently almost undiminished vitality, an examination of party activities in Michigan and within its lesser political subdivisions reveals striking and significant changes."

In the discussion of these changes lie the contributions of the volume, albeit essentially local; yet as an epitome of Michigan experience, the discussion is a valuable contribution to the comparative study of state party organizations and state electoral machinery. From time to time, similar studies of scholarly workmanship appear in various states dealing with the operation of the direct primary—and although none of these perhaps necessitate any radical recasting of ideas on the subject, all taken together may later form the basis of a general work of much value.

Probably the most valuable chapters of the thesis are those on direct nominations and the management and financing of campaigns. They reveal clearly and interestingly the numerous and complicated reactions of parties to legislation and other conditions, and the various

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symptoms of the unmistakable weakening of party solidarity in Michigan. These chapters show, or at least suggest, how complex the electoral process really is, and how in the end its results are a product of various interacting factors. They strengthen the belief, which is already quite general, that the problem of the electorate is a proper subject for comprehensive and detailed investigation, rather than for "snap" judgment of timeworn platitudes.

In his study of primary and election expenses, Mr. Millspaugh has used a great mass of statements. In this particular, Michigan afforded a special advantage. There are very few other states which have available statements of election expenses dating back to 1892. He has gone into the subject of campaign finances rather fully, and has made a considerable contribution to the study of bipartisanship, controlled precincts, and their relation to independent voting. Of much interest is the relating of Michigan's experience with interparty interferences in the primaries.

A formal bibliography is not given, but the essential materials consulted are to be gathered from the numerous references in footnotes. The Detroit and Grand Rapids newspapers appear to have been pretty thoroughly used since 1890, also the available state and local public documents; but the insight which the author shows into the actual inside workings of party organizations suggest that he probably has a personal acquaintance with the minds of some of the leading politicians of Michigan in the period. The work has a good index.

GEORGE N. FULLER.

Lansing, Mich.

Constitutional Conventions: Their Nature, Powers and Limitations. By ROGER SHERMAN HOAR. (Boston: Little, Brown and Company. 1917. Pp. xvi, 240.)

This work of eighteen chapters is a careful and thorough discussion from a legal standpoint, of the origin, nature and underlying theory of state constitutional conventions. It includes a list of cases, a few references, a good index and a final chapter giving a summary of the conclusions reached.

The book discusses in general the relation of the convention to the executive, the courts, the legislature and to the electorate as the representative of the people. The author's main thesis is that the people are sovereign, that a constitution is a contract between the people

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and the whole state, and that the people have an inherent right to change their form of government at will. He argues, furthermore, that the convention is the agency used by the sovereign people for this purpose and that such changes of government may be accomplished (1) by some authorized procedure, (2) by a lawful act of the whole people in their sovereign capacity, or (3) by a spontaneous popular movement either backed up by force or ratified by general acquiescence in the result.

The author gives special attention to the many questions so frequently arising with reference to the respective jurisdictions of convention and legislature. Against the opinion of Judge Jameson who preferred a dominant legislature to a "sovereign convention," the author argues that the convention is a legislative body of a higher order than the legislature and should be considered as a fourth department of government, coördinate, and hence not subject in matters of importance to the control of the legislature. Mr. Hoar, however, is no advocate of "convention sovereignty," since the convention is to be considered as the agent of the sovereign people, and therefore has delegated not inherent powers.

It is obvious that the present Massachusetts Convention is uppermost in the author's mind and that in writing this work he was seeking to anticipate troublesome questions by outlining in advance the theory and practice of other states. In doing so, he has worked out an excellent study of the constitutional convention, bringing together in compact form a wealth of information bearing on this most important subject. A few inaccuracies may be noted here and there but none are of any special consequence. One might query whether the author is fully familiar with the eighteenth century theories of social contract, or why he thought it necessary to base his argument on the ancient doctrine of popular sovereignty, but these questions are immaterial in that they do not seriously modify the author's conclusions.

J. Q. Dealey.

Brown University.

Railway Nationalisation and the Average Citizen. By William H. Moore. (New York: E. P. Dutton and Company. 1917. Pp. x, 181.)

Mr. Moore's discussion of railway nationalization deals almost wholly with the Canadian situation. It is written frankly from the standpoint of one of the three great Canadian railway systems, the

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Canadian Northern. Since the book was published, the fate it was written to avert, government ownership, has befallen it (or befallen Canada). Yet the book is of general and of lasting interest. The writer's training as a fellow in political science and his twenty years' experience in the active and inside management of a transcontinental railway have given him unusual qualifications for his task. His style is direct and forceful, and the shrewd practical argument carries a wide measure of conviction.

Mr. Moore begins by puncturing some of the pretentious generalizations which are the stock-in-trade of many advocates of government ownership. Then in rapid review he shows how the parallel between highways and railways does not hold, recites the failure of the government telephone experiment in Manitoba, blames state socialism for Australia's stagnation, and compares Canadian private roads with state railways abroad as to service, progressiveness, rates and wages, all to the advantage of the former. The possibility that private ownership under government regulation will result in more freedom and more competition than unchecked public ownership and operation is illustrated by reference to the policy of "the dictator of our Ontario state-monopoly," the Hydro-Electric Commission. Passing to the Canadian situation, Mr. Moore makes clear how vitally the development of the West and the building of railways were bound up together, compares the assistance given the new railways with that given the Canadian Pacific, and insists that recent financial difficulties were due to the war and the cutting-off of English capital. He deals briefly with the criticism that Canada has overbuilt, insisting that at most it merely anticipated traffic a little, and that it secured its roads at cheap pre-war rates for capital.

Mr. Moore fails to deal with the fundamental weakness of C. N. R. financing, namely, the reliance placed upon bond issues to the exclusion of share capital. He is equally reticent about the criticism of undue political influence exerted by the promoters of the road in federal and provincial capitals, though it was resentment of this phase of the situation which was mainly responsible for the public unwillingness to continue further the policy of subsidy and guarantee, and which led to the action of the government last summer in deciding to take over the whole system. On the points which he does select for discussion, however, the argument is keen and incisive, and, in large measure, conclusive.

O. D. SKELTON.

Queen's University, Kingston, Ontario.

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The Budget. By RENÉ STOURM. A translation from the seventh edition of *Le Budget* (*Cours des Finances*), Paris, 1913. Thaddeus Plazinski, Translator. Walter Flavius McCaleb, Ph.D., Editor. Introduction by Charles A. Beard, Ph.D. (New York: D. Appleton and Company, for the Institute for Government Research, 1917.)

The treatise on the budget, by René Stourm, professor at *L'École des Sciences Politiques*, originally published in 1889, has been reprinted and revised a number of times, and still holds the field as the standard and authoritative work on this subject in French. Its translation into English makes it more available; and to have this done under American auspices is especially appropriate, in view of the attention now being given to budget methods in this country.

Little need be said about the merits of an original work of such established reputation. The present publication is the combined work of several persons. In his foreword, the editor states that he has modified extensively the manuscript of the translator; and that "there are a number of bracketed addenda and footnotes, which, with a few exceptions, were supplied by Dr. F. A. Cleveland, under whose general direction the translation was undertaken, who, also, took occasion on nearly every page to leave the marks of his excellent judgment." In view of this statement, it is at least confusing to find the bracketed footnotes ascribed, in the notes, to "The Editor." These footnotes, as well as the other bracketed additions in the headings and text, are in the nature of explanations or criticisms of statements by the author; and it would have made clearer the distinction between the author's statements and the views of the editors if the latter had all been made in the form of bracketed footnotes. These comments for the most part serve to emphasize Mr. Cleveland's well-known opinions on budget questions, which in several respects are at variance with those of Professor Stourm.

Other liberties have been taken, by revising the chapter synopses and introducing marginal sideheads, so as to make the style of the book conform to that of the series of Studies in Public Administration, being issued by the Institute for Government Research.

J. A. F.

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Mine Taxation in the United States. By LEWIS EMANUEL YOUNG, E.M., Ph.D. (University of Illinois Studies in the Social Sciences, Vol. V, No. 4, December, 1916.)

This valuable treatise is the first comprehensive publication which presents the data furnished by the experience of states that have for many years taxed mining properties. It also contains a compilation of the tax laws and decisions affecting mines in the United States. A perusal of the work impresses the reader with the great amount of discriminating study by the author, and also the divergent and generally unscientific methods of taxing mining property in most states.

Aside from the introductory chapter, which contains an exposition of the federal and state policy regarding mineral resources and a review of United States mining history, there are eight others treating of the history of national and state taxation of mines, constitutional and statutory provisions, present methods of taxation in the different states, comparison of systems of mine taxation, problems of administration, tax burden, and suggested methods of reform.

In the chapter on problems of administration, after pointing out the peculiarities of mine taxation in a general way, the author expounds fully the methods by which mining properties have been appraised in Michigan, Minnesota, and Wisconsin. These appraisals by central state authority are shown to be a distinct advance in the method of placing a proper valuation on mines. That they are thoroughly practical is made clear by a paragraph giving their annual cost which varies from 2 to 5 mills per $1000 of taxes collected from these properties.

One of the most interesting chapters is that showing the tax burden on mineral industry. The surplus after deducting cost of operation from the output and the ratio of this surplus to the taxes paid in each state are shown for the different kinds of mining. The relative burden of taxation in the different states is thus brought out.

The author properly warns against using the data of the tables to compare with similar data for other industries, because, as he points out, no allowance has been made in the figures for depreciation to which all mines are subject.

In the summary of suggested reforms, the following principles are advocated: (1) If constitutional uniformity in taxation is required, a centralized appraisal of mines should be provided. (2) If classification is permitted, mines should be assessed at full value and the tax equated with the tax burden on other property. (3) When the constitution

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does not limit the taxing power, taxes on mines should be equated with those on other property. Mines should be appraised by an approved system like that used in Michigan. (4) When income and progressive taxes are used, the tax should be graduated according to the percentage of earnings, on cost of the mine or paid in capital. (5) Mines should be taxed for both state and local purposes and local tax rates should be limited by law.

The work contains an exhaustive bibliography and is well indexed.

Attention should be called to a typographical error on page 169. In the table showing depreciation of oil lands, $0.555 should be $0.055.

JOHN B. PHILLIPS.

Indiana University.

Separation of State and Local Revenues in the United States. By MABEL NEWCOMER. (Columbia University Studies in History, Economics and Public Law. New York: Longmans, Green and Company. 1917. Pp. 195.)

The subject of this monograph is the once popular but now somewhat discredited separation of the sources of state and local revenues. For the purposes of this particular investigation, "separation" means the use of different sources of income for the state and local units. It has usually been accomplished, in the United States, by the relinquishment of a large part, or the whole, of the state taxes on general property in favor of local taxes thereon, while the state has developed a series of special taxes, principally on the different classes of corporations, on inheritances, and, in the southern states, on occupations and privileges. While not a necessary feature of such a program, it has usually been true that such a division of the sources of revenue has been accompanied by local or decentralized administration of the local taxes. In fact, one principal motive for the adoption of separation of sources was the elimination of the incentive to competitive undervaluation which was presented by the heavy direct state taxes.

The work under review describes in detail the measures by means of which separation of sources was accomplished in certain states. This survey is confined to those states in which the movement has gone farthest, and is by no means offered as a complete discussion. The most notable omission is the case of Ohio, in which virtually complete separation has been in force for at least fifteen years. The principal

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achievements which have followed the introduction of separation have been the increase of revenues through the development of new sources, and improved administration of the taxes levied for state purposes. Separation has not resulted in improved local administration; in fact, it has often retarded such improvements because of the habitual association of decentralized local administration with the program of separation. The most serious objection to the plan is the inelasticity of state revenues. On account of this difficulty, complete separation has been generally abandoned. There is little prospect that it will remain a permanent feature of state tax systems, though at the time of its introduction it was generally a mark of progress.

It is rather disappointing to find, in such a work, no study of the literature of the separation movement, and no attempt to explain the peculiar degree to which this idea often overshadowed all other programs of tax reform. Instances of this obsession are to be found in Ohio, Florida and California. The book is published without an index, and the author has frequently been content to cite secondary sources instead of readily accessible primary sources.

H. L. LUTZ.

Oberlin College.

The Taxation of Negroes in Virginia. By TOPTON RAY SNAVELE. (University of Virginia, 1917. Pp. 97.)

In this dissertation the author has undertaken to determine how the burden of taxation has fallen on the negroes. The work is fairly well done in parts, but it should have been amplified. The most scholarly part of the book is that which deals with taxation since the Civil War. In treating the *ante-bellum* period, the author shows a lack of breadth in that he does not connect the question of the taxation of negroes with the struggle between eastern and western Virginia, which finally resulted in the disruption of the state. He does not bring out the fact that the West wanted the increase in taxes necessitated by the construction of internal improvements obtained from a tax on slaves, as the mountaineer did not possess many; while the East was anxious to tax more heavily cattle and the like, which flourished beyond the mountains.

C. G. WOODSON.

Washington, D. C.

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The United States Post Office. By DANIEL C. ROPER. (New York: Funk and Wagnalls Company. 1917. Pp. xviii, 382.)

The post office is one branch of the national service which has received inadequate attention from historians and political scientists. There is no economic history similar to the admirable monograph on the British postal system contributed by Mr. Hemmeon to the Harvard Economic Studies, and despite several specialized studies and many elaborate congressional reports, there is still a great need for a complete account of the development of the post office and for a consideration of its present efficiency as an administrative arm of the government. An attempt to ascertain the actual losses in money and efficiency on account of the appointment of postmasters for political considerations and the "pork barrel" legislation which, as some one has said, places magnificent buildings in hamlets where "they gleam like diamonds on soiled shirt-fronts" would yield valuable as well as interesting results. It would also throw much light upon the advisability of further government ownership in general, and of extending the collectivist activities of the post office to include, as they do in other countries, the telephone and telegraph, pensions, insurance, and employment agencies.

Mr. Roper, who for three years during Mr. Wilson's first administration was first assistant postmaster general, attempts to fill none of these great gaps, but his book nevertheless has its place as one which aims "to sum up in a large and, perhaps, superficial way the history and present condition of the postal service of the United States, and to indicate the potentiality of this institution for still greater service to our country and to mankind." The latter part of this ambition is hardly realized by the present volume; but Mr. Roper has succeeded in giving a readable history of the beginnings and expansion of postal facilities (registry system, money orders, postal savings, parcels post, etc.), with a very clear explanation of the workings of the post office and interesting information as to the difficulties to be solved, such as would hardly be possible for an author without actual experience in postal administration. The bibliography is incomplete and faulty, and there are some typographical errors,—but the book should be of service to those citizens wishing to learn something of the national agency with which they most frequently come into contact.

LINDSAY ROGERS.

University of Virginia.

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Economic Development of Modern Europe. By FREDERIC AUSTIN OGG. (New York: The Macmillan Company. 1917. Pp. xvi, 657.)

In his preface the author tells us "It is the purpose of this book to indicate the origins, and to explain with some fullness the nature and effects, of a number of the more important economic changes and achievements in Europe during the past three hundred years." He also calls attention to the fact that some of the more technical subjects such as public finance have been omitted from consideration; and that attention has been restricted to the three leading countries, France, Germany, and Great Britain with Ireland. Part I, on the antecedents of nineteenth century growth, bridges the gap between mediaeval and modern economic conditions, and the remaining three parts concern themselves mainly with the century just past. Part II treats of agriculture, trade, transportation and industry; part III of the movement and growth of population and of labor organizations and legislation; and part IV of socialism and social insurance. A companion volume is promised which is to consider European social legislation intensively.

This volume is not intended for the casual reader, but is a student's and a scholar's source of information and stimulus. A large amount of material is presented, both of historical facts and of theoretical exposition. At the end of each chapter are several pages of selected references to the literature of the subject. Helpful footnotes and fifteen pages of index complete the aids offered by the book to the student of recent economic evolution. That this is the work of Professor Ogg is sufficient guarantee of its scholarly character. A few insignificant slips of proof readers' oversights such as (p. 72) that prices "fell" because of the increase in the stock of money, and the dates 1794 (p. 37) and 1858 (p. 538) will doubtless be corrected at the next printing.

EDGAR DAWSON.

Hunter College.

Excess Condemnation. By ROBERT E. CUSHMAN. (New York: D. Appleton and Company. 1917. Pp. 323.)

The student who described excess condemnation as "the practice of putting a man to death for stealing a loaf of bread" now has a thorough, nontechnical and readable treatise at his disposal. Dr.

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Cushman has entered virgin ground and presents from the standpoint of social control a "direct and effective means of solving certain city planning problems, of serving highly important social and esthetic ends." His treatment of this subject interests the student of law, finance and city planning, or rather, re-planning. Lot remnants, protection of both beauty and usefulness, and recoupment or profit are adequately treated by numerous specific instances of practical application in American and foreign cities.

Clear-cut and constructive conclusions are drawn in each chapter. The author believes that "the risk of loss is too serious to warrant its adoption as a method of municipal finance," but that "the financial risks are not so dangerous as to render unwise the use of that policy for the purpose of controlling remnants of land or protecting public improvements." His final conclusion is that excess condemnation is "not merely the best solution available for that problem, but also that it is the only policy which adequately and effectively meets the public need. It strikes the wisest and fairest balance between social control and the protection of individual rights."

The tables of constitutional provisions and statutes would have been strengthened by an appendix of about ten pages giving the full texts in each state. An adequate citation and discussion of cases is presented. Illustrations or diagrams of the Fairmount Parkway in Philadelphia or Avenida Central in Rio Janeiro would have added value. This study must be considered an admirable specific for our lack of foresight in previous municipal planning. It is a valuable addition to the National Municipal League series in which it appears.

E. A. COTTRELL.

Ohio State University.

An Introduction to Political Philosophy. By J. P. FARRELL, M.A. (London: Longmans, Green and Company. 1917. Pp. vii, 220.)

This work, written by a former principal and professor of history in Dayaram Jethmal Sind College, at Karachi, is designed to provide English and Indian students who "go up to the universities and commence to read political philosophy for an honors examination in history" with an introduction to the subject as a whole and some explanatory comment and criticism of the principal classical writers in the field. About half of the book is taken up with an elaborate analysis

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of Plato and Aristotle, while most of the remaining portion of the work is devoted to similar analyses of Hobbes, Locke and Rousseau. A bare paragraph devoted to each suffices for such other writers as Thomas Aquinas, Machiavelli and Bodin. Two brief concluding chapters are devoted to the analytical and historical schools of the nineteenth century. The social compact writers are discussed in a chapter entitled "The Great Error," and the great error is defined as "the confusion between the historical inquiry into the origin of the state among civilized peoples, and the philosophical inquiry into the moral basis upon which the state rests and the consequent justification for its existence."

The method impresses the reviewer as rather mechanical and lacking in viewpoint. There is an insufficient correlation of historic fact with political theory. Furthermore, some of the most important doctrines of the past are totally neglected. Next to nothing is said of the theory of natural law; the theory of sovereignty is scarcely mentioned. No attention is given to the organismic theories of the nature of the state. The book may have value as a manual for examinations, but it will not secure a permanent place in the literature of the history of political theories.

WALTER JAMES SHEPARD.

University of Missouri.

Mankind, Racial Values and the Racial Prospect. By SETH K. HUMPHREYS. (New York: Charles Scribner's Sons. 1917.)

In this book certain commonplaces of eugenics are denatured by confusion with the assumptions of the racial mythology dear to the German junker. War conditions have somewhat altered the emphases which Mr. Houston Stewart Chamberlain and his fellow myth-mongers have made familiar, but the intellectual pattern is obvious enough: in the beginning were two European types, the Aryan and the non-Aryan, and whatever is good is Aryan, and whatever is not, is non-Aryan. The Aryan stock is divided into sub-stocks; degenerate in France; exhausted in England, but flourishing in the colonies; young, and because inexperienced, promising in Germany. As for the Slav, he is not Aryan, and is congenitally backward. In America there is the menace of the melting-pot. In the world the only alternative to German racial dominion is English racial dominion. To save the world from Germany we must breed eugenically.

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Which would be very nice if it were true. But the writer exhibits an Olympian scorn—or is it ignorance?—of the social and economic and political and cultural histories of the peoples about whose "racial values" he is so glib that the notorious Chamberlain himself would regard him as impeccable. Prejudice, speculation and sentiment, not knowledge, are the sources of his book.

H. M. KALLEN.

University of Wisconsin.

Jean Jaurès: Socialist and Humanitarian. By MARGARET PEASE. With introduction by J. Ramsay Macdonald, M.P. (New York: B. W. Huebsch. 1917. Pp. 157.)

Jean Jaurès was more than a socialist. He was a philosopher, an historian, a journalist, and an orator. Moreover, he was a man of unusual character, forceful, picturesque, at times a little ridiculous. This book is not, properly speaking, his biography. It is a sketch, eulogistic rather than discriminating, of Jaurès in his relation to modern French socialism. His readiness to coöperate with radical ministries and take as much of the loaf as he could get is explained and supported. His minor part in the defense of Dreyfus is unduly emphasized. His views upon international relations are also considered, but here the treatment is naturally more uncertain. Jaurès talked of the three-year service law as if there were no northeastern frontier; the author writes of peace as if there were no Belgium. In the hours before his assassination Jaurès appears to have seen that the time had come to fight for a just cause, but neither this fact nor its possible recognition by Jaurès seems to have impressed the author.

H. A. YEOMANS.

Harvard University.

Génesis del Estado y de sus instituciones fundamentales. By VALENTINE LETELIER, formerly professor of public law and president of the National University of Chile. (Buenos Aires. 1917. Pp. xiii, 804.)

This latest volume of Professor Letelier is worthy of the scholarly reputation which the author enjoys in all Spanish-speaking countries. In it he has discussed the following subjects: juristic methodology (which has no relation either to the title of the book or to the other subject matter); the character of the different early races, the country

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in which they lived and their first attempts at settled community life; and the beginnings of legislative assemblies, political authority, police and military forces, justice and public administration. Its greatest value lies in the fact that he has carefully studied the growth of governmental institutions among the various South American races, and has made clear the correlation between them and the similar institutions of other primitive peoples. This is a task which has long needed to be done, and the author has accomplished it in a thorough and workmanlike fashion.

MOISÉS VARGAS.

University of Chile.

MINOR NOTICES

Science and Learning in France is a survey by American scholars, under the general editorship of Dean John H. Wigmore, of the achievements of French scholarship during the last century and of the opportunities for instruction and research at French universities. After introductions by Charles W. Eliot and George E. Hale, each of the main divisions of university work is treated; and an appendix describes the organization, methods and degrees of French universities. The section on political science, including economics and international law, was written by Professors J. W. Garner, Leon C. Marshall, Jesse S. Reeves and Abbott P. Usher.

Volume VII of the *Proceedings of the Second Pan American Scientific Congress* (Washington: Government Printing Office) contains the papers and addresses presented before the sessions of Section VI, on International Law, Public Law and Jurisprudence, at Washington, D. C., December 27, 1915, to January 8, 1916. There are 80 papers, by 72 writers, 40 of whom were from Latin-American countries, dealing with a variety of topics in the fields of political science covered by this section of the congress.

The War Against War, by Professor Christen Collin, of Christiana University (London: Macmillan and Company, pp. 163) is a collection of essays, commenting on different phases of the world war and efforts for peace, by a prominent Norwegian specialist in literature and philosophy. His general attitude of sympathy for the Entente Allies is indicated by his reference to "the way in which simple, unsuspecting pacifism has played into the hands of aggressive militarism, by opening up a tempting prospect of world conquest."

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In *The Supreme Will* (The Hague: M. Nijhoff, pp. 191) the dangers of a premature peace are discussed by Mr. H. Dunlop, a Hollander by birth. His conclusions are summed up in the following extract: "Owing, chiefly, to the violation of Belgium, the majority in Holland is anti-German. There are many pro-French and many pro-English specialists. The Dutch are often exhorted to be 'pro-Dutch' only. But I believe we can 'go one better,' in being pro-civilisation."

A trenchant and vigorously-written little book on *The House of Hohenzollern and the Hapsburg Monarchy* by Gustav Pollak has been published by The New York Evening Post Company. It contains the various articles which the author has from time to time during the past year contributed to the columns of the *Nation* and the *Evening Post*.

A duodecimo volume by Theodore Marburg entitled *League of Nations* (New York: The Macmillan Co., pp. 139) gives a narrative of the movement for a League to Enforce Peace based largely upon the author's own connection with the undertaking. There is a foreword by former President Taft.

A little book on *The Irish Home-Rule Convention*, published by The Macmillan Company, contains chapters on British aspects of the convention by George W. Russell and Sir Horace Plunkett, together with a discussion of American opinion with reference to the home-rule question by John Quinn.

A condensed comparative study of some phases of legislative procedure in American and European countries is presented in *Practicas Parlamentarias: Las Asambleas Legislativas*, by Vicento Pardo Suarez (Habana: Rambla, Bonza y C^{a}.). Volume I deals with the questions of quorum, membership and the three readings; volume II considers parliamentary immunity, legislative organization, and the length of sessions. Under each topic there is a brief general statement, and a short summary under each country, arranged alphabetically.

The Canada Law Book Company of Toronto in conjunction with the Cromarty Law Book Company of Philadelphia has brought out a *Canadian Municipal Manual* (pp. 1039) which will be of much interest and value to law libraries, research bureaus and other reference centers. The volume includes all the chief legislative enactments relating to municipal affairs in the various Canadian provinces, the work of editing having been skillfully done by Messrs. Meredith and Wilkinson of Toronto, under the supervision of Sir W. R. Meredith, Chief Justice

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of Ontario. Among important statutes included are the Municipal Arbitrations Act, the Public Utilities Act, and the Bureau of Municipal Affairs Act. An exhaustive digest of the judicial interpretations accompanies each enactment and the volume is provided with an admirable index. For consultation on any legal matter relating to local government in Canada this book will prove of the highest value.

Students of municipal government in its broader bearings will find *The City Worker's World* by Mary Kingsbury Simkhovitch (New York, The Macmillan Co., 1917, pp. 231) a book of far more than passing interest. All the discussions go to the heart of great urban problems, housing, poor relief, health protection and the like. The chapter on "Politics" is particularly trenchant, and deserves not only to be read but to be studied by every teacher of civic affairs. On the ever-recurring question as to why municipal reform so often receives a set-back in the great cities of this country there is a great deal of illumination in this chapter.

A second edition of *The History of Tammany Hall*, by Gustavus Meyers has been issued by Messrs. Boni and Liveright. First published in 1901, this volume has been out of print for a decade or more. The present edition contains several additional chapters which deal with the methods and activities of Tammany during the last sixteen years. In its revised and enlarged form the volume places at the disposal of every library a comprehensive and up-to-date survey of what has long been recognized as the most highly-organized political machine in the country.

The *Final Report* (1916) of the commission on building districts and restrictions of the New York City board of estimate and apportionment is a substantial volume of 300 pages, with numerous maps and illustrations. This includes chapters on the necessity for a comprehensive plan of city building, use districts, height districts and area districts, with appendices on charter provisions, zoning survey, districting, record of testimony and the report of the committee of the whole of the board of estimate and apportionment on the building zone plan.

In several of the larger cities of the United States the problem of combining the several detached local governments into a comprehensive municipal organization is receiving attention. In January, 1917, the Chicago Bureau of Public Efficiency issued a report on *Unification of Local Governments in Chicago* (pp. 98); and this was followed in Octo-

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ber with a report on *The City Manager Plan for Chicago* (pp. 60). About the same time as the latter, the Tax Payers' Association of California published a valuable report on *City and County Consolidation in Los Angeles*, with illustrative maps and charts. These reports will be of service to other cities which have to face the same problem.

A useful bulletin is that on *County Government in Texas* by Professor Herman G. James, issued by the state university. This is mainly a descriptive account, based on an analysis of statutory provisions; but it also contains some criticism and a bibliography of references on county government.

A History of the Australian Ballot System in the United States by Eldon Cobb Evans (University of Chicago Press, 1917, pp. 102) is a doctoral dissertation of far better than usual quality both in form and substance. It covers more ground than its title would imply. The description of conditions preceding the introduction of the Australian ballot in this country, for example, is not the least useful chapter of the book. The present-day balloting machinery, the court decisions relating to ballots, and many matters relating to the methods of polling are brought together in compact form. There are useful appendices (including the text of the original Australian ballot act) and a good bibliography which covers the whole field of balloting.

The History of the Civil War by James Ford Rhodes (New York, The Macmillan Co., 1917, pp. 454) is much more than a digest of the material already incorporated in the same author's larger historical volumes. Many important matters are discussed anew and more emphasis is placed upon the political aspects of the war. The student of war politics and of mid-century American diplomacy will find much to interest him in several of the chapters, for the volume is not, as its title might imply, a mere narrative of military operations. It is a discussion of national life in all its phases during a great and critical period of American history.

American Presidents: Their Individualities and their Contributions to American Progress is the title of an interesting book by Professor Thomas F. Moran of Purdue University (New York, Crowell & Co., pp. 148). The personal characteristics of each national executive from Washington to Wilson are delineated briefly, but always with fairness and in good humor.

The second volume of Professor George C. Whipple's work on *State Sanitation* has been issued by the Harvard University Press, pp. 452.

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It contains in some cases reprints and in other cases abridgments of the more important articles or studies which have appeared in the publications of the Massachusetts state board of health during the past forty-seven years. Included also are chronological abstracts of the board's annual reports. Many of these writings represent pioneer achievement in the domain of public health administration, and taken as a whole they afford an interesting history of the stages through which that science has developed during the last half century.

The second edition of Judson's *Power of Taxation* (St. Louis: F. H. Thomas Law Book Co., pp. 1144) has been revised and much new matter added, based on recent legislation and judicial decisions. The text shows an increase of 100 sections and 24 pages; and this is reflected in the relatively greater increase in the table of cases and the index. But the largest addition is in the appendix, containing a digest of the state tax systems and the new United States tax laws of 1916 and 1917.

A discussion on constitutional revision in Illinois forms about 200 pages in the *Proceedings* of the 41st annual meeting of the Illinois State Bar Association, held at Danville, May 31 to June 2, 1917. This includes some twenty papers and addresses by judges, lawyers and professors of political science.

Messrs. Henry Holt & Co. have brought out, under the title of *Our Democracy*, a volume by Professor James H. Tufts of the University of Chicago. The book is not intended for use by scholars in political science but by "the citizen, and the prospective citizen, who is willing to know better what his country stands for." It does not deal, therefore, with the mechanism of American government but rather with those fundamental principles and ideals which the machinery of American government is supposed to serve. The discussions are in large measure historical, but in the latter portion of the volume there are interesting chapters dealing with such topics as the system of checks and balances, the relation of democracy to the courts, and the possibility of procuring in America a greater degree of popular self-government.

World Patriots, by John T. M. Johnston (New York: World Patriots Co., 1917, pp. 319), contains short biographical sketches of about a dozen notable historical personages in various countries: Washington and Lincoln in the United States, Bolivar in South America, Napoleon I in France, Peter the Great in Russia, Bismarck in Germany, William Pitt in England, Ito in Japan, Cavour in Italy, and

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Gustavus Adolphus in Sweden, together with supplementary sketches of Lee, Jefferson and Thomas H. Benton. The object of the book is "to kindle the fires of patriotism in the hearts of the American people and to inculcate sound principles of citizenship."

In the National Social Science Series, published by Messrs. A. C. McClurg & Co., a volume by Arland D. Weeks on *The Psychology of Citizenship* has recently been included. The student of practical politics will find much to interest him in the book, particularly in the chapter which deals with "Civic Publicity and the Voter."

An authoritative work on *Postal Savings* by Professor E. W. Kemmerer has been issued by the Princeton University Press (pp. 176). The volume includes not only a history of the movement for a postal savings system in the United States but a critical study of the existing arrangements.

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RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

Annals of the American Academy of Political and Social Science. Justice through simplified legal procedure. Pp. 251. Concord, N. H.

Beecher, Franklin A. Federal rule book. Pp. xii + 579. Detroit: Fred S. Drake.

Chandler, G., and *Cherny, J. L.* Iowa and the nation. Pp. 365. Chicago: Flanagan Co.

Clark, Rear Admiral Charles E. My fifty years in the navy. Pp. 346. Little, Brown & Co.

Clune, Mary Catherine, ed. Joseph Hawley's criticism of the constitution of Massachusetts. Northampton, Mass., Smith College Studies in History.

Corwin, Edwin S. The President's control of foreign relations. Pp. 216. Princeton Univ. Press.

Dart, W. Kernan. The Louisiana judicial system. Pp. 61. Indianapolis: Hollenbeck Press.

Election laws of the state of California, 1917–18. Pp. 34 + 368. San Francisco: A. Carlisle & Co.

Elliott, C. Burke. The Philippines. Vol. I, To the end of the military régime; Vol. II, To the end of the commission government. Pp. 541; 541. Indianapolis: Bobbs-Merrill.

Harlow, R. V. The history of legislative methods in the period before 1821. Pp. 269. Yale Univ. Press.

James, Herman G. County government in Texas. Univ. of Texas Bulletin. Pp. 118. Austin, Texas.

Judson, Frederick N. A treatise on the power of taxation, state and federal, in the United States. Pp. xxx + 1144. St. Louis: The F. H. Thomas Law Book Co.

Kemmerer, E. W. Postal savings system of the United States. Pp. 176. Princeton Univ. Press.

Leeper, D. Rohrer. The American idea, being a short history of the tendency of political history, with special reference to the origin, development and destiny of the federal-republican polity of the United States. Pp. 205. Chicago: Rand McNally.

Millspaugh, A. C. Party organization and machinery in Michigan since 1890. Johns Hopkins Univ. Studies in Historical and Political Science. Series XXXV, No. 3, Pp. 189. Baltimore.

Moran, T. F. American presidents; their individualities and their contributions to American progress. Pp. 148. N. Y., Crowell.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Meyers, Gustavus. The history of Tammany Hall. 2d ed. rev. and enl. Pp. 20 + 414. N. Y., Boni & Liveright.

Oberholtzer, Ellis Paxson. A history of the United States since the Civil War. In 5 vols.; vol. I, 1865–68. Pp. 11 + 579. N. Y., Macmillan.

Orcutt, William Dana. Burrows of Michigan and the Republican party. 2 vols. Pp. 357; 369. N. Y., Longmans, Green & Co.

Rexius, Gunnar. Presidentmaktens renässans i Förenta Staterna. Uppsala. J. A. Lindblad.

Rightmire, George W. Cases and readings on the jurisdiction and procedure of the federal courts. Pp. xvi + 892. Cincinnati: The W. H. Anderson Co.

Thompson, C. Manfred. History of the United States; political, industrial, social. Pp. 20 + 540. Boston: B. H. Sanborn & Co.

Thorpe, Francis Newton. The essentials of American constitutional law. Pp. 279. N. Y., G. P. Putnam's Sons.

Tufts, J. H. Our democracy; its origins and its tasks. Pp. 6 + 327. N. Y., Holt.

United States Statutes annotated. Vol. 5. (To be complete in 12 volumes.) Chicago: T. H. Flood & Co.

War administration. Illus. Pp. 41. Boston: Perry Walton.

Williams, Charles P. Jurisdiction and practice of federal courts, a handbook for practitioners and students. Pp. xix + 586. St. Louis: The F. H. Thomas Law Book Co.

Zollmann, Carl. American civil church law. Pp. 473. N. Y., Columbia Univ. Studies in History, Economics and Public Law.

Articles

Amendment and Recall. Amendment of constitutions and recall of judicial decisions. *Ira Jewell Williams.* Const. Rev. Oct., 1917.

Army Organization. The organization of our new army. *Col. Cornélis DeWitt Willcox.* Harper's M. Nov., 1917.

———. The expansion of our army. *William Addleman Ganoe.* Yale Rev. Jan., 1918.

Cabinet. The cabinet in congress. *Francis E. Leupp.* Atlan. M. Dec., 1917.

Children's Bureau. The children's bureau in war time. *Julia C. Lathrop.* No. Am. Rev. Nov., 1917.

Citizenship. Citizenship and the Constitution in time of war. *Job E. Hedges.* Const. Rev. Oct., 1917.

Compulsory Military Service. Compulsory military service. *William Irwin Grubb.* So. Law Quar. Dec., 1917.

Constitution in War Time. The war and the Constitution. *Henry Jones Ford.* Atlan. M. Oct., 1917.

———. The war and the Constitution. *George B. Rose.* Am. Law Rev. Sept.–Oct., 1917; Case and Comment, Oct., 1917; Virg. Law Reg. Dec., 1917.

Dartmouth College Case. Should the Dartmouth College decision be recalled? *James C. Jenkins.* Am. Law Rev. Sept.–Oct., 1917.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Electoral System. Our bungling electoral system. *Joseph Cady Allen.* Am. Pol. Sci. Rev. Nov., 1917.

Federal Taxing Power. Limitations on the federal taxing power. *Alexander Maxwell Hamburg.* Bull. Nat. Tax. Ass'n. Nov., 1917.

Forest Conservation. Conservation and the police power. *Noel Sargent.* Illinois Law Rev. Oct., 1917.

Judicial Notice. Judicial notice in the law of Illinois. *Homer H. Cooper.* Ill. Law Rev. Nov.–Dec., 1917.

Judicial Veto. The American judicial veto. *Noel Sargent.* Am. Law Rev. Sept.–Oct., 1917.

Massachusetts. Massachusetts constitutional convention. *Henry Campbell Black.* Const. Rev. Oct., 1917.

Latin-American Policy. A plea for honesty. *Moorfield Storey.* Yale Rev. Jan., 1918.

Minimum-wage legislation. The constitutional issue in minimum-wage legislation. *Thomas Reed Powell.* Minn. Law Rev. Dec., 1917.

Minnesota. Making a state efficient for democracy. *Hugh J. Hughes.* Rev. of Rev. Oct., 1917.

Monopolies. Monopolizing at common law and under section two of the Sherman Act. *Edward A. Adler.* Harvard Law Rev. Dec., 1917.

National Government. The national government as a holding corporation. *W. F. Willoughby.* Pol. Sci. Quar. Dec., 1917.

Political Parties. A new liberal party. *Harold Kellock.* Century. Oct., 1917.

Public Information Committee. The Creel press cabinet. *William de Wagstaffe.* Forum. Oct., 1917.

———. The government's own publicity work. *Donald Wilhelm.* Rev. of Rev. Nov., 1917.

Public Utilities. Social welfare in rate making. *Raymond T. Bye.* Pol. Sci. Quar. Dec., 1917.

Railway Strikes. Railway strikes and the Constitution. *Arthur A. Ballantine.* Columbia Law Rev. June, 1917.

State as Defendant. The state as defendant under the federal Constitution; the Virginia-West Virginia debt controversy. *William G. Coleman.* Harvard Law Rev. Dec., 1917.

State Legislatures. Reflections about state legislatures. *H. S. Gilbertson.* Nat. Mun. Rev. Nov., 1917.

State Manager Plan. A state manager plan. *Richard S. Childs.* Nat. Mun. Rev. Nov., 1917.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Addison, Hon. Christopher. British workshops and the war. Pp. 52. Unwin.

Argentine civil code, together with constitution and law of civil registry. Trans. by Frank L. Joannini. Pp. lix + 732. Boston Book Co.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Auerbach, Bertrand. Les races et les nationalités en Autriche-Hongrie. Paris: Alcan.

Barker, J. Ellis. The great problems of British statesmanship. Pp. 456. John Murray.

Barrès, Maurizio. La dottrina nazionalista. Prima versione italiana di Enrico Goldmann. Pp. 173. Milano.

Belevsky, A. et *Voronoff, B.* Les organisations publiques russes et leur rôle pendant la guerre. Pp. xxxii + 336. Paris: Hachette et C^ie^.

Bland, J. O. P. Li Hung-Chang. N. Y., Henry Holt & Co.

Borsi, Umberto. Studî di diritto coloniale: concetto di colonia, classificazione delle colonie. Pp. 62. Torino: Fratelli Bocca.

Cellerier, H. La politique fédéraliste. Pp. 320. Paris: Nlle. Librairie Nationale.

Chaudet, Gustav. Histoire du parti radical suisse. Berne: Ferd. Wyss.

Curtis, M. L. The problem of the Commonwealth. Pp. xii + 248. London: Macmillan. 1916.

Durell, Col. A. J. V. The principles and practice of the system of control over parliamentary grants. Pp. 546. Gieves.

Farrar, James Anson. The monarchy in politics. Pp. 9 + 342. N. Y., Dodd, Mead & Co.

Fliche, Augustin. Les théories germaniques de la souveraineté à la fin du XI^e^ siècle. Pp. 69. Paris.

Gage, Capt. R. H., and *Waters, A. J.* English translation of the Imperial German code. Johannesburg, South Africa: W. E. Horton & Co., Ltd.

Gettlich, Wlad, Capitaine Ordon. Österreichs Schicksalsstunde. Bemerkungen zur Einberufung des Wienes Parlaments. Genf.

Gwatkin, H. M. Church and state in England to the death of Queen Anne. Pp. 416. Longmans, Green & Co.

Hazen, Charles Downer. Alsace-Lorraine under German rule. Pp. 246. N. Y., Henry Holt & Co.

Eversley, G. J. Shaw-Lefevre, Lord. The Turkish empire; its growth and decay. Pp. 392. N. Y., Dodd, Mead & Co.

Hammond, M. O. Canadian confederation and its leaders. Pp. 333. George H. Doran Co.

Irish Home-Rule Convention. Pp. 183. Macmillan Co.

Jamison, E. M., Ady, C. M., Vernon, K. O., and *Terry, C. Sanford.* Italy: Medieval and modern. Pp. viii + 564. N. Y., Oxford Univ. Press.

Jensen, Adolf. Samfundskundskab. 2 vols. Pp. 106; 93. Kjöbenhavn: Gyldendalske Boghandel.

Kjellen, Rudolf. Politiska handböcker. IV. Sverige. Stockholm: Hugo Geber.

Kornilov, Alexander. Modern Russian history. 2 vols. A. A. Knopf.

Lambert, Richard C. The parliamentary history of conscription in Great Britain, being a summary of the parliamentary debates, etc., with an index and text of the military service acts and a preface. Pp. 381. Allen & Unwin.

Low, Sidney. Italy in the war. Pp. 328. N. Y., Longmans.

Lysis. Pour renaître. Pp. 252. Paris: Payot.

Lysis. Vers la démocratie nouvelle. Pp. 281. Paris: Payot.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Murray, Gilbert. Great Britain's sea policy. Pp. 35. T. Fisher Unwin.

Organisation politique et administrative et législation de l'Alsace-Lorraine. Deux tomes. Paris: Impr. nationale.

Out of their own mouths. Pp. 255. N. Y., D. Appleton & Co.

Périn, Eugène. Circonstances atténuantes et sursis devant les conseils de guerre (loi du 20 avril 1916). Paris: librairie de la Société du Recueil Sirey.

Presutti, Enrico. Instituzioni di diritto amministrativo italiano. Vol. I. Pp. 565. Roma, Athenaeum.

Reade, Arthur. Finland and the Finns. New edition. Pp. 336. N. Y., Dodd, Mead & Co.

Reparaz y Astein, Julián de. El referendum. Pp. 102. Madrid.

Russian union of zemstvos. Pp. 39. London: King.

Schierbrand, Wolf von. Austria-Hungary: the polyglot empire. Pp. 7 + 352. N. Y., Stokes.

Seignobos, Chaumet, Legouez, Vacher, Dervaux, Gide. La réorganisation de la France. Pp. 276. Paris: Félix Alcan.

Stevenson, Mabel McLuhan. Our government. Toronto: George J. McLeod.

Stoyanovitch, Nikola. La Serbie d'hier et de demain. Préface d'André Tardieu. Pp. xiii + 179. Paris: Berger-Levrault.

Van Hentz, J. B., Jr. Politieke ontwikkeling en hervormingen in Oost-Azië en de positie van Indisch-Nederland in toekomstige conflicten.

Wallace, David Duncan. The government of England; national, local, imperial. Pp. 384. G. P. Putnam's Sons.

Wallez, N. La Belgique de demain et sa politique. Pp. 168. Paris: Van Oest.

Weale, B. L. Putnam. The fight for the republic in China. N. Y., Dodd, Mead & Co.

Webster, Robert Grant. The awakening of an empire. Pp. xxv + 326. London: John Murray.

White, Capt. J. R. The Irish question as the key to the labour problem of the world. McBride.

Woolf, L. S. The future of Constantinople. Pp. 109. N. Y., Macmillan.

Articles

Australia. The labor party and strikes in Australia. Round Table. Dec., 1917.

Austria-Hungary. What is Austria? *Henry Wickham Steed.* Edin. Rev. Oct., 1917.

———. Domestic politics in Hungary. *Louise E. Matthaei.* Contemp. Rev. Oct., 1917.

———. Should Austria-Hungary exist? *Charles Pergler.* Yale Rev. Jan., 1918.

Bohemia. The demands of the Bohemian people. *J. F. Smetanka.* Jour. Race Devel. Oct., 1917.

British Empire. British federalism: a vanished dream? *J. A. R. Marriott.* Nine. Cent. Sept., 1917.

———. Imperial unity—a colonial point of view. *Lieut.-Colonel F. S. Tatham.* United Empire. July, 1917.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

British Empire. Where the Imperial War Conference has left us. *W. Basil Worsford.* Nine. Cent. Nov., 1917.

British Naval Policy. The war and the naval offensive. *David Hannay.* Edin. Rev. Oct., 1917.

Canada. The Union government. Round Table. Dec., 1917.

Central America. The federation of Central America. *William F. Slade.* (Chaps. VI–XII with bibliog.) Jour. Race Devel. Oct., 1917.

China. Adjustment of the financial relations between the central government, the provinces and local governing bodies. *W. F. Willoughby.* Chinese Soc. and Pol. Sci. Rev. Sept., 1917.

Denmark. Jordbrukspolitik i Danmark. *J. O. Aashamar.* Syn og Segn. Mai, 1917.

Finland. Finland's independence: A letter from Helsingfors. *Robert Crozier Long.* Fort. Rev. Nov., 1917.

France. Le recrutement régional des partis politiques de 1789 à 1914. Un pays de droite conservatrice: la Guyenne. *Compte de Calan.* Rev. Sci. Pol. Oct., 1917.

———. Après la guerre: la dette publique. *E. Ponchelet.* Bibliothéque Univ. et Rev. Suisse. Nov., 1917.

Germany. The indissolubility of Germany. *A. H. E. Taylor.* Contemp. Rev. Oct., 1917.

———. The mind and mood of Germany today. *A. D. McLaren.* Atlan. M. Dec., 1917.

Great Britain. From contract to status? *Sir Arthur Clay.* Edin. Rev. Oct., 1917.

———. Political reconstruction. Round Table. Dec., 1917.

———. Proportional representation. *Lord Parmoor.* Contemp. Rev. Nov., 1917.

———. A real second chamber. *J. B. Firth.* Fort. Rev. Nov., 1917.

———. The requisite second chamber. *Aneurin Williams.* Contemp. Rev. Nov., 1917.

India. The administration of India. *Sir George Forrest.* Blackwood's Magazine. Oct., 1917.

———. A new India: the Malay states. *Arnold Wright.* Quar. Rev. Oct., 1917.

———. Politics in India. Round Table. Dec., 1917.

Ireland. Ireland as a 'Dominion.' *A. V. Dicey.* Nine. Cent. Oct., 1917.

———. The Ulster Nationalist. *J. W. Good.* Contemp. Rev. Nov., 1917.

Legislative Reform. Esquisse de réforme de la legislation des étrangers. *E. Thaller.* Rev. Pol. et Parl. Sept. et oct., 1917.

Letts. The Letts. *C. Hagberg Wright.* Edin. Rev. Oct., 1917.

Lithuania. Lithuania: Its desires and claims. *John S. Lopatto.* Jour. Race Devel. Oct., 1917.

New Zealand. War politics. Round Table. Dec., 1917.

Prussia. Elections and democracy in Prussia. *Donald Paige Frary.* Rev. of Rev. Oct., 1917.

Russia. Russia's territorial policies. *Prof. Paul Milyukov.* (Trans. from the Russian.) Russian Rev. July, 1917.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Russia. The roots of the Russian revolution. *Edward Alsworth Ross.* Century. Dec., 1917.

———. The Russian revolution. *Melville E. Stone.* Russian Rev. July, 1917.

———. Manasevitch-Manouiloff. *E. H. Wilcox.* Fort. Rev. Oct., 1917.

———. The two Moscow councils. *Charles Johnston.* No. Am. Rev. Oct., 1917.

South Africa. The Republican movement in South Africa. Round Table. Dec., 1917.

Switzerland. Affaires de Suisse. *Maurice Millioud.* Bibliothèque Univ. et Rev. Suisse. Oct., 1917.

———. La neutralité de l'opinion publique et de la presse suisse. *Edouard Blaser.* Bibliothèque Univ. et Rev. Suisse. Nov., 1917.

INTERNATIONAL RELATIONS

Books

Academy of Political Science. The foreign relations of the U. S. Part I: 1. The democratic ideal in world organization. 2. Future Pan-American relations. Part II. 3. Future relations with the far east. 4. Investments and concessions as causes of international conflict. Pp. 31 + 331; 6 + 129. N. Y.

Adam, Mme. (*Juliette Lamber*). Guillaume II (1890–1899). Pp. 253. Paris: Alcan.

Alvarez, Alejandro. Le droit international de l'avenir. Pp. 153. Washington: Institut Americain de Droit International.

Andler, C. Le Pangermanisme colonial sous Guillaume II. Le Pangermanisme philosophique. 2 vol. Paris: Conard. 1916–1917.

Annals of the American Academy of Political and Social Science. The world's food. Pp. 323. Concord, N. H.

Baicoianu, C. I. Le Danube. Aperçu historique, économique et politique. Paris: Libr. Recueil Sirey.

Bosanquet, Bernard. Social and international ideals. Pp. 10 + 325. N. Y., Macmillan.

Blakeslee, G. Hubbard, ed. A selected list of books on the present war; by the members of the Seminar on International Relations, Clark Univ. Pp. 44 + 78. Worcester, Mass.

Blumenthal, Daniel. Alsace-Lorraine. N. Y., G. P. Putnam's Sons.

Bourgeon, Ph. La guerre allemande et la justice entre les nations. Paris: Libr. Recueil Sirey. 1916.

Debidour, A. Histoire diplomatique de l'Europe depuis le Congrès de Berlin jusqu'à nos jours. 2 vol. Paris: Alcan.

Demorgny, G. La question Persane et la guerre. Les accords Anglo-Russo-Persans de 1907 et 1912. L'influence française et l'effort allemand en Perse. Paris: Recueil Sirey. 1916.

Dunlop, H. The supreme will, or the danger of a premature peace. Pp. 191. The Hague: Martinus Nijhoff. 1916.

Egerton, H. E. British foreign policy in Europe. To the end of the 19th century. Pp. 450. Macmillan.

Fairgrieve, J. Geography and world power. Pp. 8 + 356. N. Y., E. P. Dutton & Co.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Fauchille, Paul. La guerre de 1914. Jurisprudence française en matière de prises maritimes. Paris: A. Pedone, édit. 1916.

Ferrand, Georges. Des réquisitions en matière de droit international public. 2e ed. Paris: A. Pedone, édit.

Gerard, James W. My four years in Germany. New York: George H. Doran Co.

Germiny, Comte Edouard de. Les conflits de nationalités devant les juridictions internationales. Paris: Recueil Sirey.

Grumbach, S. Germany's annexationist aims. (Trans. by J. Ellis Barker.) Pp. 149. N. Y., E. P. Dutton & Co.

Herron, George D. Woodrow Wilson and the world's peace. Pp. 173. Mitchell Kennerly.

Hill, David Jayne. The rebuilding of Europe. Pp. 10 + 289. N. Y., Century Co.

Hofer, Cuno. Die Keime des grossen Krieges. Pp. iv + 274. Zurich: Schulthess & Co.

Huberich, Charles Henry and *Nicol-Speyer, Alexander,* eds. German legislation for the occupied territories of Belgium. Official texts. 8th, 9th and 10th Series, and Index to Vols. 1–5. The Hague: Martinus Nijhoff.

Jacquelin, René. Le droit social et la réparation des dommages en régions envahies. Pp. 150. Paris: Société du Recueil Sirey.

Jansma, K. Vernietiging van neutrale prijzen en hoe deze kan worden voorkomen.

Jastrow, Morris, Jr. The war and the Bagdad Railway. Pp. 160. J. B. Lippincott Co.

Jaurès, Jean. Discorsi: politica estera, pace internazionale. Pp. 48. Milano.

Jugoslav Committee in North America. Austro-Magyar judicial crimes; persecutions of the Jugoslavs; political trials 1908–1916. Pp. 96. Chicago.

Lange, C. L. Die Bedingungen eines dauernden Friedens. Bericht über die Arbeiten der Interparlamentarischen Union. Pp. 57. Kristiania, Interparlamentarisches Bureau.

Laurentie, G. Les lois de la guerre. Pp. 273. Paris: Marchal et Godde.

Legnano, Giovanni da. De bello, de represaliis et de duello. Ed. by Sir Thomas Erskine Holland. Pp. xxxviii + 458. Printed for the Carnegie Institution of Washington. Oxford Univ. Press.

Lemoine, Albert. Les conventions internationales sur le régime des prisonniers de guerre. Paris: Libr. Léon Tenin.

Leroy, Maxime. L'ère Wilson. La société des nations. Paris: Giard et Brière.

Lindbæk, J. Forspillet til verdenskrigen. Stormagtspolitik 1871–1914. Pp. 252. København: Aschehoug & Co.

Marburg, Theodore. League of nations. Pp. 139. The Macmillan Co.

Marriott, J. A. R. The Eastern question; an historical study in European diplomacy. Pp. 8 + 456. N. Y., Oxford Univ. Press.

Milhaud, Edgard. La société des nations. Pp. 268. Paris: Bernard Grasset.

Mollica, P., and *Nicoletti, A. U.,* comps. Guide tascabile per l'Italiano in America. Pp. 18 + 126. Nicoletti Press.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Morrison, A. J. East by west; essays in transportation; a commentary on the political framework within which the East India trade has been carried on from very early times, starting with Babylon and ending very near Babylon. Pp. 177. Boston: Sherman, French.

Naval War College. International law topics. Neutrality proclamations and regulations. Pp. 153.

Neander, Herman. Bland krigsfångar. Uppsala: L. Nordblads Bokhandel.

Nippold, O. Die Gestaltung des Völkerrechts nach dem Weltkrieg. Pp. 285. Zurich: Orell Füssli.

Ossiannilson, K. G. Who is right in the world war? Translated by W. F. Harvey. London: T. Fisher Unwin, Ltd.

Pan American Scientific Congress, Proceedings of the second. Section VI. International law, public law and jurisprudence. Vol. VII. Pp. xiv + 867. Washington, D. C. Gov. Pr. Office.

Pantaleoni, Maffeo. Note in margine della guerra. Pp. 266. Bari: Laterza.

Pantaleoni, Maffeo. Tra le incognite. Problemi suggerite della guerra. Pp. 286. Bari: Laterza.

Passelecq, Fernand. La question Flamande et l'Allemagne. Pp. 332. Paris: Berger-Levrault.

Passelecq, Fernand. Les deportations Belges à la lumière des documents allemands. Pp. 435. Paris: Berger-Levrault.

Phillipson, Coleman, and *Buxton, Noel.* The question of the Bosphorus and Dardanelles. Pp. xvi + 264. London: Stevens & Haynes.

Piazza, Guiseppe. La nostra pace coloniale: l'Italia e l'allianza in Oriente e in Africa. Pp. 133. Roma: Casa Editrice "Ansonia."

Randolph, Carman F. The great alliance against the Prussian "state," with papers on international commerce. Washington: The National Marine League.

Robertson, J. M. Britain versus Germany. An open letter to Prof. Eduard Meyer. Pp. 124. London: T. Fisher Unwin.

Root, Elihu. The effect of democracy on international law. Pp. 21. N. Y., Am. Assn. for International Conciliation.

Root, Elihu. The Russian mission, the United States and the war, political addresses. Harvard University Press.

Scott, James Brown. A survey of international relations between the United States and Germany, 1914–1917. N. Y., Oxford University Press.

von Suttner, von Bertha. Der Kampf um die Vermeidung des Weltkriegs. Ed. by A. H. Fried. Pp. 1258. 2 vols. Zurich: Orell Füssli.

Taylor, Charles Fremont. A conclusive peace. Philadelphia: John C. Winston Co.

Tchéou-Weï, S. Essai sur l'organisation juridique de la société internationale. Paris: librairie Atar et Georges Crés et Cie, édit.

Treat, Payson Jackson. The early diplomatic relations between the United States and Japan. Pp. 459. Baltimore: The Johns Hopkins Press.

Trobolda, L. N. La futura organizzazione del mondo; Il grande statuto delle nazioni; principî di diritto internazionale. Pp. viiij + 79. Firenze.

Tyau, M. T. Z. The legal obligations arising out of treaty relations between China and other states. Pp. 22 + 304. N. Y., G. E. Stechert.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Vosnjak, Bogumil. A bulwark against Germany: the fight of the Slovenes, the western branch of the Jugo-Slavs, for national existence. Pp. 270. London: Allen & Unwin.

Vreeland, Hamilton. Life of Grotius. Pp. 266. N. Y., Oxford.

Waxweiler, Emile. El proceso de la neutralidad belga. Madrid.

Wieth-Knudson, K. A. Verdenspolitiske kriser. Pp. 282. Kjöbenhavn: Wilhelm Priors Forlag.

Articles

Albania. The Albanian question. *M. E. Durham.* Contemp. Rev. Oct., 1917.

Alsace-Lorraine. The return of Alsace-Lorraine. *Ernest Dimnet.* Nine. Cent. Sept., 1917.

America. America's part in the war. Round Table. Dec., 1917.

Armenia. Armenia and the Armenians. *Ismail Kemal Bey.* Fort. Rev. Oct., 1917.

Australia. Le rôle de l'Australie dans la guerre actuelle. *Henry Tardent.* Bibliotheque Univ. et Rev. Suisse. Août, Sept., Oct., 1917.

Balkans. The final settlement of the Balkans. Quar. Rev. Oct., 1917.

Belgium. La politique belge et l'avenir des nationalités. *Paul Otlet.* La Paix par le Droit. Juillet-Août, 1917.

Canada. The war situation in Canada. *Benjamin Apthorp Gould.* Atlan. M. Oct., 1917.

China. China in the war. *Carroll K. Michener.* Rev. of Rev. Oct., 1917.

———. Treaty relations between China and the United States relating to commerce. *Ching Wen-Sze.* Chinese Soc. and Pol. Sci. Rev. Sept., 1917.

Denmark. Danmarks financielle forhold til udlandet. *C. O. Henriques.* Nationalökonomisk Tidsskrift. Nov.-Dec., 1916.

Diplomacy. Les procédés diplomatiques des empires austro-allemands au cours de la guerre 1914-1917. *A. Merignhac.* Jour. Droit Inter. XLIII-XVI, 1917.

Food Supply. Ententens ernaringsproblemer. *A. C. Kaarsen.* I, II. Nationalökonomisk Tidsskrift. Nov.-Dec., 1916. May-June, 1917.

Foreign Relations. Legislatures and foreign relations. *Denys P. Myers.* Am. Pol. Sci. Rev. Nov., 1917.

Germany. The fallacy of a German peace. *André Chéradame.* Atlan. M. Nov., 1917.

———. The beginning of the German 'Peace Offensive:' a warning. *George A. B. Dewar.* Nine. Cent. Oct., 1917.

———. The future of the German colonies. *Bishop George H. Frodsham.* Nine. Cent. Oct., 1917.

———. The German plot and democracy's future. *David Jayne Hill.* Century. Oct., 1917.

Hague Conventions. Some aspects of the Hague Conventions. *Oscar Hallam.* Case and Comment. Nov., 1917.

———. Application aux rapports entre la France et la Grande-Bretagne des conventions de la Haye, de droit privé. *Maurice Travers.* Jour. Droit Inter. XLIII-XVI, 1917.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

International Court. The international court: a Central American view. *Rafael Montúfar.* World Court. Oct., 1917.

International Law. Administration of international law. *V. K. Wellington Koo.* Chinese Soc. and Pol. Sci. Rev. Sept., 1917.

———. Le droit international de l'avenir selon les vues américaines. *Charles Dupuis.* Rev. Sci. Pol. Août, 1917.

International Organization. America's place in the world. *George Louis Beer.* Yale Rev. Jan., 1918.

———. Lessons of the great war and the society of nations of the future. *Alejandro Alvarez.* World Court. Oct., 1917.

International Settlement. Het medium voor internationale verrekeningen; het goud. *M. W. J. Van Lutterveld.* De Economist. Oct., 1917.

Japan. The Ishii-Lansing agreement between Japan and the United States. *Edward L. Conn.* World Court. Dec., 1917.

Mesopotamia. The responsibility for Baghdad. *Lovat Fraser.* Edin. Rev. Oct., 1917.

———. The Bagdad Railway negotiations. Quar. Rev. Oct., 1917.

Military and Political Situation. The military and political situation. *Politicus.* Fort. Rev. Nov., 1917.

Monroe Doctrine. The Monroe Doctrine and the war. *Carl Becker.* Minn. Hist. Bull. May, 1917.

———. What the Monroe Doctrine has been, is, and may be. *Charles H. Levermore.* World Court. Sept., 1917.

———. The Monroe Doctrine a world principle. *Committee on Public Information.* World Court. Sept., 1917.

———. The Monroe Doctrine in relation to a just and durable peace. *John H. Latané.* World Court. Sept., 1917.

Nationality. Du contentieux et de la compétence en matière de nationalité. *Eugène Audinet.* Jour. Droit Inter. XLIII–XLVI, 1917.

———. A quels signes reconnaître une société comme nationale en Italie. *Mario D'Amelio.* Jour. Droit Inter. XLIII–XLVI, 1917.

———. Nationalité et naturalisation en droit suisse. *G. Sauser-Hall.* Jour. Droit Inter. XLIII–XLVI, XLVII–LX. 1917.

Pan-Germany. How to destroy Pan-Germany. *André Chéradame.* Atlan. M. Dec., 1917.

Peace. Fredsvoner og fredskrav. *Halvdan Koht.* Syn og Segn. Januar, 1917.

———. Forliksfred. *N. Gjelsvik.* Syn og Segn. Januar, 1917.

———. The formula for peace. *Courtenay De Kalb.* Atlan. M. Dec., 1917.

Poland. Poland as a concrete factor in international politics. *Bronislaw D. Kulakowski.* Jour. Race Devel. Oct., 1917.

———. Polish political parties and the war. *R. A. Ussher.* Nine. Cent. Oct., 1917.

———. Present conditions in Poland. *Varsoviensis.* Polish Review. Oct., 1917.

———. Polske stemninger og handlinger under verdenskrigen. *Jens Raabe.* Nordisk Tidskrift, No. 3, 1917.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Political Boundaries. The rôle of political boundaries. *D. W. Johnson.* Geog. Rev. Sept., 1917.

Prize Courts. English and German prize courts and prize law. *C. D. Allin.* Minn. Law Rev. Dec., 1917.

Rights of Nations. Une déclaration américaine des droits et devoirs des nations. *C. Dupuis.* Rev. Gen. du Droit Inter. Pub. Mai–Août, 1917.

———. Rights of nationalities. *Charles H. Levermore.* World Court. Nov., 1917.

Spain. Spain and the great war. *T. H. Pardo de Tavera.* Century. Jan., 1918.

Treaties. Some original scraps of paper. *C. A. Hereshoff Bartlett.* Law Quar. Rev. Oct., 1917.

Tropical Colonies. Tropical colonies—"International Government." *John H. Harris.* Fort. Rev. Nov., 1917.

Turkish Foreign Policy. Turkey, Russia and Islam. Round Table. Dec., 1917.

Vatican. The Vatican and the Germanic powers. Contemp. Rev. Oct., 1917.

———. David Urquhart, the law of nations, and the Vatican council. *Francis F. Urquhart.* Dublin Rev. Oct., 1917.

———. The Pope's letter. *Charles Johnston.* Atlan. M. Nov., 1917.

JURISPRUDENCE

Books

Armand-Ugón, Enrique C. Las leyes inconstitucionales, 1917. Montevideo.

Cascales, Eduardo Garcia. Legislación y jurisprudencia sobre expropiación forzosa y materias a que se aplica. Madrid.

Celentano, Federico. Manuale della giustizia penale militare. Pp. iij + 529. Napoli.

Dejongh, Charles et *Yseux, Victor.* Le droit et la guerre.

Duranti, Eugenio. Le obbligazioni reali nel diritto civile italiano. Pp. 185. Sassari.

Fitzpatrick, J. T. The penal law and code of criminal procedure of the state of New York; annotated by J. T. Cook; as amended at the 140th session of the legislature. 29th ed. Albany, N. Y., Bender.

Montes, Jerónimo. Derecho penal españo. Parte general. Volumen II. Pp. 498. Madrid.

Munch-Petersen, H. Den danske Retspleje. 1. Haefte. Pp. 64. Gad.

Nappi, Giuseppe. Trattato di diritto e procedura penale militare. Vol. I. Pp. 698. Milan.

Oyuelos, Ricardo. Jurisprudencia accidentes del trabajo y tribunales industriales. Pp. 225. Madrid.

Paz, Enrique Aguilera de. Commentarios a la ley de enjuiciamiento criminal. Tomo VI y último. Madrid.

Rodriguez, Orangel. Teoria critica de las bases del derecho internacional privato. Caracas.

Science of legal method. Select essays by various authors. (The Modern

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Legal Philosophy Series, Vol. IX.) Translations by Ernest Bruncken and Layton B. Register. Pp. lxxxvi + 593. Boston Book Co.

Toscano, Nicola. Primo trattato del diritto penale industriale italiano. Pp. xxxij + 642. Napoli.

Vecchio, Jorge del. El concepto de la naturaleza y el principio del derecho. Madrid.

Zanobini, Guido. La pubblicazione delle leggi nel diritto italiano. Torino.

Zehntbauer, Richard. Einführung in die neuere Geschichte des ungarischen privatrechts. Freiburg (Schweiz), 1916.

Articles

Alien Enemies. Alien enemy persons, firms and corporations in English law. *Cyril M. Picciotto.* Yale Law Jour. Dec., 1917.

———. German laws relating to payments to alien enemies. *Charles Henry Huberich.* Columbia Law Rev. Dec., 1917.

———. Le séquestre des biens des sujets ennemis en France. *Eugène Audinet.* Jour. Droit International xvii–xx, 1917.

British Army in France. The legal position of the British army in France. *P. G. E. Gide.* Yale Law Jour. Dec., 1917.

Courts of Review. Preparation and presentation of cases in courts of review. *Orrin N. Carter.* Ill. Law Rev. Oct., 1917.

———. Methods of work in courts of review. *Orrin N. Carter.* Ill. Law Rev. Nov., 1917.

Criminal Law. Professor Torps Straffelovsudkast. *Oskar Johansen.* Tilskueren. Oct., 1917.

Law and the State. The law and the state. French and German doctrines. *León Duguit.* Harvard Law Rev. Nov., 1917.

Moratorium. Le moratorium judiciaire et les étrangers. *R. Japiot.* (À suivre.) Jour. Droit International. xvii–xx, 1917.

Occupied Territory. The legal relations between an occupying power and the inhabitants. *L. Oppenheim.* Law Quar. Rev. Oct., 1917.

Private International Law. Some observations on the private international law of the future. *Antoine Pillet.* Yale Law Jour. June, 1917.

Remedial Rights. A modern evolution in remedial rights,—the declaratory judgment. *Edson R. Sunderland.* Mich. Law Rev. Dec., 1917.

LOCAL GOVERNMENT

Books

Chicago Bureau of Public Efficiency. The city manager plan for Chicago. Pp. 60. Chicago: Chi. Bur. of Pub. Eff.

Commission on Building Districts and Restrictions. Final report. June 2, 1916. Pp. vi + 299. City of New York Board of Estimate and Apportionment Committee on the City Plan. 1916.

Decker, D. O. and *Harrison, Shelby M.* City and county administration in Springfield, Illinois. Pp. 158. N. Y., Russell Sage Foundation.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Edwards, George William. New York as an eighteenth century municipality, 1731–1776. Pp. 205. N. Y., Columbia University Press. Studies in History, Economics and Public Law.

Macmorran, Alexander, and *Willis, W. Addington,* eds. Local Government, 1915–1916. Pp. xviii + 617 + 9. London: Butterworth & Co.

Meredith, John R., and *Wilkinson, William B.* Municipal manual. Ed. by Sir Wm. Ralph Meredith. Ontario: Canada Law Book Co.

Michele, La Torre. I controlli su le amministrazioni comunale e provinciali. Firenze. 1916.

Peterson, Arthur Everett. New York as an eighteenth century municipality. Prior to 1731. Pp. 199. N. Y., Columbia University Press. Studies in History, Economics and Public Law.

Public Welfare Committee. Humanizing the greater city's charity. The work of the department of public charities of the city of New York. Pp. 144.

Reinach, Joseph. Le village reconstitué. Pp. 26. Paris: Van Oest.

Tax Payers' Association of California. City and county consolidation for Los Angeles. Pp. 194. Los Angeles.

Articles

Budget Making. Recent progress in budget making and accounting. *C. E. Rightor.* Nat. Mun. Rev. Nov., 1917.

County War Work. Fairfield County, [Conn.] mobilizes. *Wallace Thompson.* Century. Nov., 1917.

Municipal Administration. How our big cities do things. Equity. Oct., 1917.

Municipal Civil Service. Progress in municipal civil service: a review of reports in the past year. *F. W. Coker.* Nat. Mun. Rev. Nov., 1917.

New York City. Fusion's achievements: a series of articles . . . appearing in the N. Y. Evening Post. Sept. 13, 14, 17–21, 24–28, Oct. 1, 3, 15, 1917.

POLITICAL THEORY AND MISCELLANEOUS

Books

Bartholomew, J. G. The advanced atlas of physical and political geography. Folio (14¾ x 10), maps. Pp. 96; index, pp. 32. N. Y., Oxford Univ. Press.

Boje, Andreas. Det tyske social demokrati för og under verdenskrigen. Pp. 167. Lehmann & Stage.

Bouvier, E. La conception allemande de l'etat. Pp. 87. Trévoux: Jeannin.

Carrière, G. La reprèsentation des intérêts et l'importance des éléments professionels dans l'évolution et le gouvernement des peuples. Paris: Alcan.

Clark, John Spencer. The life and letters of John Fiske. 2 vols. Boston: Houghton, Mifflin Co.

Ely, Richard T., Hess, Ralph H., Leith, Charles K., and *Carver, Thomas Nixon.* The foundations of national prosperity. Pp. 378. The Macmillan Co.

Erichsen, Erich. Forced to fight. The tale of a Schleswig Dane. Translated by Ingeborg Lund. New York. Pp. 184. Robert McBride.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Falk, Erik. Dantes uppfattning of stat och kyrka. Stockholm: P. A. Norstedt & Söner.

Foerster, N. and *Pierson, W. W., Jr.*, eds. American ideals. Pp. 326. Boston: Houghton, Mifflin Co.

Gwynn, S. Life of the Rt. Hon. Sir Charles W. Dilke. Completed and edited by Gertrude M. Tuckwell. 2 vols. Pp. 19 + 557; 7 + 614. Macmillan.

Honnold, Arthur B. A treatise on the American and English workmen's compensation laws. 2 vols. Pp. xxi, vii, 1905. Kansas City: Vernon Law Book Co.

Johnston, Mercer Green. Patriotism and radicalism. Pp. 218. Boston: Sherman, French & Co.

Kiser, Donald J. Workmen's compensation acts: A corpus juris treatise. Pp. 145. N. Y., The American Law Book Co.

Mason, D. M. Six years of politics, 1910–1916. Containing speeches on finance, foreign affairs, home rule and women's suffrage. Pp. 218. J. Murray.

Mawson, C. O. Sylvester. Doubleday, Page & Co.'s geographical manual and new atlas. N. Y., Doubleday, Page & Co.

Mokrzynski, Josef. Polens ekonomiska krafter. Med förord af Karl T. Petander. Stockholm: Upplysningsbyrå "Polonia."

Morley, John, Viscount. Recollections. 2 vols. Pp. 388; 382. The Macmillan Company.

Nachimson, M. Imperialismus und Handelskriege. Bern: Ferd. Wyss.

Pears, Sir Edwin. Life of Abdul Hamid. Pp. 10 + 365. N. Y., Henry Holt & Co.

Ray, P. Orman. An introduction to political parties and practical politics. (New and revised edition.) Pp. 628. Charles Scribner's Sons.

Roosevelt, T. Foes of our own household. Pp. 347. N. Y., Doran.

Russell, Bertrand. Political ideals. Pp. 172. The Century Company.

Russell, G. W. Erskine. Politics and personalities; with other essays. Pp. 367. N. Y., Scribner.

Selskabet for social Forsken af Krigens Følger. Fluctuation of the populations during the world war. I, Germany and France. Bulletin 3. Pp. 141. Kjöbenhavn.

Strong, Theron G. Joseph H. Choate; New Englander, New Yorker, lawyer, ambassador. Pp. 17 + 390. N. Y., Dodd, Mead & Co.

Tagore, Rabindranath. Nationalism. Pp. 159. Macmillan.

Van Dyke, Henry. Fighting for peace. Pp. 247. N. Y., Chas. Scribner's Sons.

Walsh, C. M. Socialism and feminism. 3 Vols. Vol. I, The climax of civilization, pp. 150; Vol. II, Socialism, pp. 178; Vol. III, Feminism, pp. 393. Sturgis & Walton.

White, William C., and *Heath, Louis J.* A new basis for social progress. Boston: Houghton, Mifflin Company.

Wigmore, John H., ed. Science and learning in France, with a survey of opportunities for American students in French universities. Pp. xxxviii + 454. The Society for American Fellowships in French Universities.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Articles

Accident Insurance. Ulykkesforsikringsloven af 6. Juli 1916. *Axel Birkmose.* Nationalökonomisk Tidsskrift. Jan.–Feb., 1917.

British Political Leaders. Mr. Winston Churchill. Blackwood's Magazine. Sept., 1917.

———. Lord George Hamilton and Sir Thomas Dilke. *B. H. Holland.* Quar. Rev. Oct., 1917.

———. Sir Charles Dilke. *H. M. Hyndman.* Fort. Rev. Nov., 1917.

Classification in Politics. 'Natural' classification in politics. *H. J. Randall.* Law Quar. Rev. Oct., 1917.

Democracy. Cossack or Republican? *Wilbur C. Abbott.* Yale Rev. Jan., 1918.

Function of Government. The creative function of government. *W. W. Lucas.* Juridical Review. Sept., 1917.

Imperialism. Financial imperialism. *Frederick C. Howe.* Atlan. M. Oct., 1917.

———. Imperialismen. *N. Gjelsvik.* Syn og Segn. Mai, 1917.

———. To magter. *Thorvild Gravlund.* Tilskueren. Aug., 1917.

Individual and the State. The nature of interests and their classification. *Albert Kocourek.* Am. Jour. Sociol. Nov., 1917.

———. Estrangement in society. *Edward Alsworth Ross.* Am. Jour. Sociol. Nov., 1917.

———. Individ og Moloch. *Carl Thalbitzer.* Tilskueren. Sept., 1917.

European Financial Politics. De invloed van den oorlog op de Europeesche Staatsfinanciën. *W. H. Westerman.* De Economist. Feb., 1917.

John Hay's Policy. John Hay's policy of Anglo-Saxonism. *William Roscoe Thayer.* World's Work. Nov., 1917.

Law and Community Ideals. Law as an expression of community ideals and the lawmaking functions of courts. *John E. Young.* Yale Law Jour. Nov., 1917.

Monarchy. Prussian theory of monarchy. *W. W. Willoughby.* Am. Pol. Sci. Rev. Nov., 1917.

Organization in Democracies. Representation and leadership in democracies. *Victor S. Yarros.* Am. Jour. Sociol. Nov., 1917.

Peace. The mechanism and limits of human association: The foundations of a sociology of peace. *Jacques Novicow.* Am. Jour. Sociol. Nov., 1917.

Political Economy and the War. De staathuishoudkunde in verband met den wereldoorlog. *J. D'Aulnis de Bourouill.* De Economist. Aug.–Sept., 1917.

Russia. Den russiske Messianisme. *Adolf Stender-Peterson.* Tilskueren. Oct., 1917.

Socialism. History of German socialism reconsidered. *Carlton J. H. Hayes.* Am. Hist. Rev. Oct., 1917.

———. International socialism. *A. Shadwell.* Edin. Rev. Oct., 1917.

State Legislation. The philosophy of state legislation. *Nathan William MacChesney.* Illinois Law Rev. Oct., 1917.

State Sovereignty. German and Anglo-American views of the state. *Victor S. Yarros.* Inter. Jour. of Ethics. Oct., 1917.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Suffrage. Stat og stemmeret. *Thorkild Gravlund.* Tilskueren. Oct., 1917.

War Bibliography. The legal literature of the war. *Lindsay Rogers.* Virginia Law Rev. Nov., 1917.

Workmen's Compensation Acts. Workmen's compensation acts in the United States. Lawyer and Banker. Dec., 1917.

———. The workmen's compensation acts. *T. R. Powell.* Pol. Sci. Quar. Dec., 1917.

GOVERNMENT PUBLICATIONS

LOUIS BLOCH

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AMERICAN

COLORADO

Survey Committee of State Affairs. Reports no. 1–6, 8–9, 13, 16, 18. Prepared for the survey committee of state affairs of Colorado, 1916.

1. Report on a survey of the office of Governor . . . 30 p.
2. Report on a survey of the office of Secretary of State . . . Pub. Utilities Commission, State Bank Commissioner, Dept. of Insurance, Bureau of Building and Loan Associations, Corporation Licensing and control, Commission merchant inspectors, or buyer's inspector. 45 p.
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The survey committee of state affairs was created by chapter 161, session laws of 1915. Owing to the fact that the constitutionality of the act creating the committee was twice before the supreme court of the state, its constitutionality was only declared as late as June 5, 1916.

GEORGIA

Manual of the General Assembly, 1917–1918. 256 p.

KANSAS

Inheritance Tax Commission. Information concerning forms prepared by the . . . in the administration of laws which provide for the taxation of legacies and successions. 1917. 33 p.

MASSACHUSETTS

Prisons. First annual report of the Bureau of Prisons of Massachusetts. For the year 1916. 1917. 188 p.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NEVADA

Industrial Commission. Brief showing effect of 1917 amendments to the Nevada industrial insurance act of 1913, as amended in 1915. 1917. 8 p.

OREGON

House Calendar, showing complete status of all bills and resolutions acted upon by the twenty-ninth Legislative Assembly, State of Oregon. 1917. 168 p.

Senate Calendar, showing . . . bills and resolutions at the close of the session, Monday, Feb. 19, 1917. 1917. 160 p.

PHILIPPINE ISLANDS

Codigo Administrativo de las Islas Filipinas de 1917. Ley no. 2711. Aprobada en 10 de marzo de 1917. Publicado por autorizacion de la ley. 1917. 1364 p.

VERMONT

Legislative Directory. Biennial session, 1917. 1917. 608 p.

UNITED STATES

Address of President Wilson to the American Federation of Labor Convention, Buffalo, N. Y. Nov. 12, 1917. 8 p.

Address of the President of the United States delivered at a joint session of the two Houses of Congress. Dec. 4, 1917. 8 p. 65th Cong. 2d sess. House doc. no. 468.

Bakery Business in United States, Report of Federal Trade Commission on. Nov., 1917. 23 p. *U. S. Food Administration.*

Coal, Oil, Gas, etc., Exploration for and disposition of. . . . House report no. 206. 65th Cong. 2d sess. 11 p.

Conquest and Kultur; aims of the Germans in their own words. Wallace Notestein and Elmer E. Stoll, comps. *Committee on Public Information.* 171 p.

Food Control and Democracy—An article proposing the organization of chambers of agriculture to regulate the equitable distribution of farm products at fair prices both for the producer and the consumer by David Lubin. Senate doc. 120. 1917. 13 p.

German War Practices. Part I, Treatment of Civilians, edited by Dana C. Munro, George C. Sellery and August C. Krey. *Committee on Public Information.* 94 p.

Governors' Conference, Proceedings of the ninth meeting of the governors of the states of the Union. Washington, D. C., Dec. 14–16, 1916. 165 p.

Industrial unrest in Great Britain. 1917. 240 p. U. S. Department of Labor. *Bureau of Labor Statistics.* Bulletin No. 237.

Journal of the war trade board. No. 1. Nov. 15, 1917. 8 p. 4°.

Labor Legislation of 1916. 197 p. 64th Cong. 2d sess. House doc. no. 2127.

Private Rights and Government Control—Address delivered at the annual meeting of the American Bar Association, held at Saratoga Springs, N. Y., September 4, 1917, by Hon. George Sutherland of Utah, President of the Association. Senate doc. 119. 1917. 14 p.

Prohibition Amendment. Minority views. House report 211. Pt. 2. 65th Cong. 2d sess. 4 p.

Senate Bills and Resolutions introduced in the U. S. Senate, History of.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

65th Congress, 1st sess. Arranged under the names of the senators introducing them. 1917. 80 p. 4°.

Shipping Board, First Annual Report. Dec. 1, 1917. 36 p.

Street Railway Conditions in the District of Columbia. Senate report 176. [1917.] 57 p.

Tariff Commission. First annual report of the United States for the fiscal year ended June 30, 1917. 65th Cong. 2d sess. House doc. no. 616. 26 p.

War Information Series, No. 10. First session of the War Congress, by Charles Merz. *Committee on Public Information.*

War Missions. Proceedings in the Senate and House of Representatives. Congress of the United States on the occasion of the receptions tendered to the war missions of France, Great Britain, Italy, Russia, Belgium, and Japan. 1917. 102 p. 65th Cong. 1st sess. Senate doc. no. 87.

War Powers under the Constitution. Address delivered before the American Bar Association at its annual meeting held at Saratoga, N. Y., on Sept. 4, 5, and 6, 1917, by Hon. Charles E. Hughes, former Justice of the United States Supreme Court. Senate doc. 105. 1917. 14 p.

FOREIGN

AUSTRALIA

Statistical Returns. Showing the voting within each subdivision in relation to the senate election, 1917 . . . Representatives, 1917. Nos. 12–18. fol.

Joint Committee of Public Accounts. First General Report, 1917. 7 p. fol.

Parliamentary Debates. 6th Parliament. 1st sess. 1914–1917. Vols. 75–81. 11708 p.

BADEN

Geschäftsbericht des Grossherzoglich Badischen Ministeriums des Innern. Für die Jahre 1906–1912. Erster Band 843 p. Zweiter Band 829 p. (1914) Karlsruhe.

GREAT BRITAIN

Census of England and Wales. 1911. General report with appendices. [Cd. 8491.] 1917. 383 p. fol. Price 4s. 6d. *Census Office.*

Central Prisoners of War Committee, Report of the joint committee on the organizations of (1917). [Cd. 8615.] 12 p. fol. Price 2d.

Commercial Intelligence, Memorandum by the Board of Trade and the Foreign Office with respect to the future organization of. [Cd. 8715.] 1917. 33 p. fol.

Commissions and Committees set up to deal with public questions arising out of the war, List of certain. [Cd. 8741, in continuation of Cd. 8256.] 1917. fol.

Conscientious objectors, committee on employment of. 1917. [Cd. 8627.] 4 p. fol.

Directory of employers' associations . . . and of trade unions for 1917. 144 p. *Board of Trade.*

Disabled Sailors and Soldiers, Reports upon openings in industry suitable for. Published by the Employment Department of the Ministry of Labour in collaboration with the War Pensions, etc., Statutory Committee. April, 1917. Prepared on behalf of the Ministry of Labour by J. St. G. Heath.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Excess Profits. Statement respecting (1) Proposals as to valuation of stocks; (2) Allowance for wear and tear, depreciation and obsolescence of assets (1917). [Cd. 8623.] fol.

Liquor trade. Appointment of committees to consider the financial aspects of control and purchase of the liquor trade by the state. June, 1917. [Cd. 8619.] 2 p. fol.

Liquor traffic. Memorandum submitted to the government in Dec., 1916, by the central control board. [Cd. 8613.] 2 p. fol.

Military service, Agreement between the United Kingdom and France respecting the liability of British subjects in France and French citizens in Great Britain to. Signed Oct. 4, 1917 at Paris. [Cd. 8691.] 5 p. fol.

National expenditure, First report from the select committee on. 1917. 10 p. fol. H. of C. 151.

Natural resources, trade, and legislation of certain portions of his majesty's dominions, Royal commission on the. (1917.) fol. [Cd. 8458–8459.]

Report of the Fuel Research Board on their scheme of research and on the establishment of a fuel research station. (1917.) 10 p.

Representation of the people bill, Copy of draft rules prescribing the method of voting and transferring and counting votes at any election according to the principle of—I, the Single Transferable Vote; and II, the Alternative Vote. (1917.) [Cd. 8768.] fol.

Representation of the people bill, 1917. Redistribution of seats. Report of the boundary commission. [Cd. 8756–8759.] 4 vols. fol.

Scientific and Industrial Research, Committee of the Privy Council for. Report for 1916–17. [Cd. 8718.] 63 p.

Sugar Supply, Royal Commission on the. First (Interim) report with statement. . . . [Cd. 8728.] 1917. 8 p. fol.

Weekly Hours of Employment. Health of Munition Workers Committee. Memo. no. 20 supplementary to memorandum no. 5 (Hours of Work). 1917. 7 p. fol. [Cd. 8801.]

NORWAY

Dyrtideus virkninger paa levevil-kaarene. 1ste del. (Effects de la cherté des viveres sur les conditions d'existence, 1ère partie.) (1917.) 80 p.

RUSSIA

Viestnik Vremennago Pravitel'stva. June, July, August, September, October, 1917. Petrograd.

This is the official gazette of the Russian provisional government.

SWEDEN

Författningssamling. 1915. Band 1, 1004 p. Band 2, 2010 p. Stockholm. 1917.

UNION OF SOUTH AFRICA

Journal of Industries. The South African. Vol. I. No. 1. September, 1917. 76 p. *Minister of Mines and Industries.*

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ELECTRONIC REPRODUCTION PROHIBITED